

THE NATIONAL COMPANY LAW TRIBUNAL  
"CHANDIGARH BENCH, CHANDIGARH"  
(through web-based video conferencing platform)

CP (CAA) No. 20/Chd/CHD/2020  
(Second Motion)

Under Sections 230 to 232 of the  
Companies Act, 2013

In the matter of the Scheme of Amalgamation between:

**STEEL STRIPS LIMITED**

with its registered office at  
Village: Harkishanpura, Bhawanigarh,  
Tehsil Sangrur, Punjab-148026.  
CIN :- L45202PB1975PLC003610  
PAN :- AACCS5076K

.....Petitioner No. 1-Transferor Company

AND

**SAB INDUSTRIES LIMITED**

with its registered office at  
SCO 49-50, Sector-26,  
Madhya Marg, Chandigarh-160019.  
CIN :- L00000CH1983PLC031318  
PAN :- AACCS5076K

.....Petitioner No. 2-Transferee Company

Order delivered on: 06.10.2021

Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)  
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)

**Present through Video Conferencing**

For the Applicant Companies

- 1) Mr. Mast Ram Chechi
- 2) Mr. Nitin Kumar,  
Practising Company Secretaries.

For the Income Tax Department

Mr. Tejender Joshi, Advocate



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Per: Ajay Kumar Vatsavayi, Member (Judicial)

ORDER

This is a joint second motion application filed by Steel Strips Limited (for brevity, the "**Petitioner Company No. 1**" / "**Transferor Company**") and SAB Industries Limited (for brevity, the "**Petitioner Company No. 2**" / "**Transferee Company**") under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 (for brevity, the "**Act**") and in terms of Rule 15 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (for brevity, the "**Rules**") for sanction of the Scheme of Amalgamation (for brevity, "**Scheme**") between the Transferor company and the Transferee Company. The joint petition is maintainable in terms of Rule 3 (2) of the Rules.

2. The petitioner companies filed First Motion Application bearing CA (CAA) No. 37/Chd/CHD/2019 ("**First Motion Application**") before this Tribunal for seeking directions to convening the meetings of equity shareholders of both Applicant Companies and for dispensing with the meetings of secured and unsecured creditors of both Applicant Companies and based on such Joint Application moved under Section 230-232 of the Companies Act, 2013 necessary directions were issued on 12.06.2020 in which meetings of secured and unsecured creditors of the Transferee Company were dispensed with. Since there were no secured and unsecured creditors in Transferee Company. Therefore, there was nothing to convene their meetings. Further, vide the same order, necessary



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directions were issued to convene the meetings of Equity Shareholders of Transferor as well as Transferee Company.

4. When the petition was listed on 22.12.2020, the following directions were issued:-

*“4. The Petition be listed for hearing on 10.03.2021. Notice of hearing be advertised in “Financial Express” (English) in Punjab Edition and “Jagbani” (Punjabi) in Punjab Edition for Transferor Company and in “Financial Express” (English) in Chandigarh Edition and “Punjab Kesari” (Hindi) in Chandigarh Edition for Transferee Company, not less than 10 days before the aforesaid date fixed for hearing.*

*5. Notice be also served upon the Objector(s) or their representative as contemplated under sub-section (4) of Section 230 of the Act, who may have made a representation and who have desired to be heard in their representation along with a copy of the Petition and the annexures filed therewith at least 15 days before the date fixed for hearing. It be specified in the notices that the objections, if any, to the Scheme contemplated by the authorities to whom notice has been given on or before the date of hearing fixed herein may be filed, failing which it will be considered that there is no objection to the approval of the Scheme on the part of the authorities by this Tribunal and subject to other conditions being satisfied as may be applicable under the Companies Act, 2013 and relevant rules framed thereunder.*

*6. In addition to the above public notice, each of the petitioner companies shall serve the notice of the petition on the following Authorities namely, (a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) Registrar of Companies at NCT of Delhi and Haryana (c) Income Tax Department through the Nodal Officer - Principal Chief Commissioner of Income Tax, NWR, Aaykar Bhawan, Sector 17- E, Chandigarh by mentioning the PAN of the companies (d) Official Liquidator, (e) Securities and Exchange Board of India, (f) National Stock Exchange and (g) Bombay Stock Exchange or to such other Sectoral Regulator(s) who may govern the working of the respective companies involved in the Scheme. along with copy of this petition by speed post immediately.*

*7. The Petitioner Companies shall at least 7 days' before the date of hearing of the Company Petition file an affidavit of service regarding newspaper publication and service of notices on the authorities specified above including the sectoral regulator and objectors, if any. Objections, if any, to the Scheme contemplated by the authorities to whom notice has been given on or before the date of hearing fixed herein may be filed, failing which it will be considered that there is no objection to the*



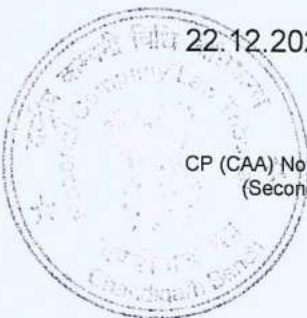


*approval of the Scheme on the part of the authorities by this Tribunal and subject to other condition being satisfied as may be applicable under the Companies Act, 2013 and relevant rules framed thereunder.*

*8. Registry shall also report before the date fixed as to whether any objection has been received to the proposed Scheme.*

5. The affidavit of compliance by the authorized signatories of the petitioner companies was filed vide Diary No. 1048/1 dated 26.02.2020 along with Original Copies of newspaper publications in 'Financial Express' (English), Punjab Edition and 'Jag Bani' (Punjabi), Punjab Edition, both dated 17.01.2021 of Transferor Company and Original Copies of newspaper publications in 'Financial Express' (English), Chandigarh Edition and 'Punjab Kesari' (Hindi), Hindi Edition, both dated 17.01.2021 of Transferee Company attached as Annexure-A/28 to A/31 respectively. Copies of proof of service of notice to the statutory authorities i.e. (a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) Registrar of Companies at NCT of Delhi and Haryana (c) Income Tax Department through the Nodal Officer - Principal Chief Commissioner of Income Tax, NWR, Aaykar Bhawan, Sector 17- E, Chandigarh by mentioning the PAN of the companies (d) Official Liquidator, (e) Securities and Exchange Board of India, (f) National Stock Exchange and (g) Bombay Stock Exchange are also part and parcel of the compliance affidavit. It is deposed that no objection has been received by the Petitioner Companies or it is from any person or authority/department to the Scheme of Amalgamation. The Registry has also report that no objection has been received as per order dated 22.12.2020.

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6. The main objects, date of incorporation, authorized, issued and paid-up share capital, rationale of the Scheme and interest of employees have been discussed in detail in Order disposing of the First Motion Application on 12.06.2020.

7. It is further submitted that the Certificates of Statutory Auditors of the applicant Companies have been placed as Annexure A-16(Colly) of the petition, stating that the accounting treatment specified in Clause 16 of the "Scheme" with regard to Amalgamation of Transferor Company with Transferee Company, is in compliance with the applicable Accounting Standards notified under Companies Act, 2013 and other Generally Accepted Accounting Principles.

8. The audited financial statements of the petitioner companies as on 31.03.2020 are attached as Annexure A-25 and A-26 respectively and copies of report of the Audit Committee of Applicant companies dated 28.06.2019 are attached as Annexure A-2 and A-8 respectively of the petition.

9. As per the Scheme, the Appointed Date shall mean 1<sup>st</sup> April, 2019 or such other date as may be proposed and approved by this Tribunal. The effective date, as stated in the Scheme is as below:-

*"Effective Date" means such date as the Transferor Company and the Transferee Company mutually agree being a date on the last of the dates or post the last of the dates on which all conditions and matter referred to in Clause 31 of the Scheme occur or have been fulfilled or waived in accordance with this Scheme. Reference in this Scheme to date of 'coming into effect of the Scheme' or 'effectiveness of the Scheme' shall mean the Effective Date.*

10. The Share Exchange Ratio under the "Scheme" has been determined in accordance with the report of Shri Vikas Aggarwal, Chartered





Accountant, Registered Valuer bearing No. IBBI/RV/02/2018/10046 dated 20.06.2019 (Annexure A-14 of the petition). The Share Exchange Ratio is as follows:-

*"1 (one) Equity Share of SAB ( of INR 10/- each fully paid-up) for every 350 (Three Fifty Equity shares of SSL ( of INR 10/- each fully paid-up)."*

11. It is deposed that there are no statutory/sectoral regulators applicable to the Petitioner Companies and the notices of the same are to be given only to namely:- (a) Central Government through Regional Director (Northern Region), Ministry of Corporate Affairs, New Delhi (b) Registrar of Companies at NCT of Delhi and Haryana (c) Income Tax Department through the Nodal Officer - Principal Chief Commissioner of Income Tax, NWR, Aaykar Bhawan, Sector 17- E, Chandigarh by mentioning the PAN of the companies (d) Official Liquidator, (e) Securities and Exchange Board of India, (f) Bombay Stock Exchange. The affidavits in this regard are attached as Annexure A-18 of the petition.

12. We have heard the Learned authorized representative for the petitioner Companies, Official Liquidator, Registrar of Companies, Regional Director, Northern Region and the Income Tax Department & have perused the records.

13. The Regional Director (RD) has filed its report vide Diary No. 001046/2 dated 18.03.2021 along with the report of the Registrar of Companies (RoC). The observations are as under:-

- (a) In para 9 of the RD report, it is stated that as per the RoC report, both the Transferor & Transferee Companies have filed their Balance Sheet and Annual Return up to the

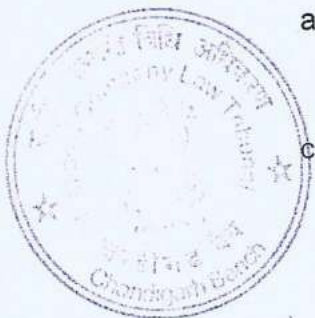


financial year 31.03.2020. It is also stated that no prosecution has been filed & no inspection or investigation has been conducted in respect of the petitioner companies.

- (b) In para 10 of the RD report, it is submitted that as per Clause 26 of the report of ROC, it is observed that As per the provision of Section 232 (3) (i) of the Companies Act, 2013, the fee, if any, paid by the Transferor Company on its authorized capital shall be set-off against any fee payable by the Transferee Company on its authorized capital subsequent to the amalgamation.

14. In response to the RD report, the learned authorized representative stated the observation of RD has been addressed by the Applicant Companies vide para 18 (i) of Part IV of the Scheme wherein it is stated that "Upon this scheme becoming effective and pursuant to the re-classification/reorganization of the resultant capital, The authorized Share capital of the Transferor Company shall stand combined with the Authorized share capital of the Transferee Company. The filing fees and stamp duty already paid by the Transferor Company on its Authorised share capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation.

15. The Official Liquidator (**OL**) in its report vide Diary No. 001046/3 dated 18.03.2021) has mainly reiterated the contents of the proposed 'Scheme' and has not made any adverse observations or raised any objections to the present Scheme of Amalgamation.





16. Learned counsel for the Income Tax Department submitted that the department has filed reports vide Diary No. 001046/4 dated 18.03.2021. It is reported that as per Income Tax Return for the Assessment year 2019-20, there is brought forward loss of Rs. 24,92,72,606/- as on 31.03.2019, which is likely to be claimed by the Transferee Company after amalgamation and thus, its setting off against taxable income and avoid the tax liability thereupon. It is also submitted that the Transferor Company has shown brought forwarded losses or unabsorbed Depreciation, whichever is less, of Rs. 8,47,78,527/- under section 115JB of the Income Tax Act, 1961 as on 31.03.2019. This loss of Rs. 8,47,78,527/- is likely to be claimed by the Transferee Company after amalgamation and thus, setting off its book profit and avoid the tax liability under section 115JB of the Income Tax Act, 1961.

17. Learned counsel for the Income Tax Department also submitted that the interest of Revenue/Department and the tax payers be protected in the interest of justice, equity and fair play and the losses/unabsorbed depreciation etc. of the Transferor Company may not be allowed to be adjusted against the income of the Transferee Company.

18. Learned Authorised Representative appearing for the applicant companies submitted that he has already filed a joint affidavit vide Diary No. 01084/1 dated 16.04.2021 whereby both the applicant companies submitted that the interest of revenue department shall be fully protected and no undue benefit shall be claimed on account of amalgamation of the transferor company with the Transferee company. Both the applicant companies further submitted no losses or un-absorbed



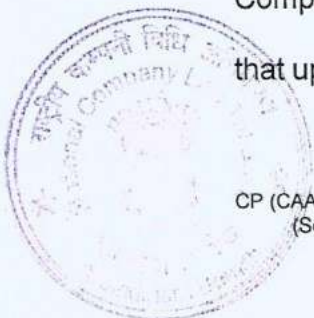


depreciation of the Transferor company shall be adjusted against income of the Transferee company.

19. BSE Limited (BSE) has forwarded the observation letters both dated 12.09.2019 (Annexure A-17 Colly of petition). It is submitted that the companies shall ensure that additional information, if any, submitted by the companies, after filing the Scheme with Stock Exchange and from the date of receipt of this letter is displayed on the website of the listed company. It is also stated that the applicant companies shall duly comply with various provisions of SEBI Circular No. CFD/DIL3-CIR/2017/21 dated March 10, 2017. It is also stated that the petition filed by the companies before NCLT after processing and communication of comments/observations on draft scheme by SEBI/Stock Exchange, therefore, the companies are not required to send notice for representation as mandated under Section 230(5) of the Companies Act, 2013 to SEBI again for its comments/representations. It is further submitted that BSE has granted no objection in terms of SEBI (LODR) Regulation, 2015 for the present Scheme of Amalgamation.

20. There has been no representation from the sectoral regulators namely Securities and Exchange Board of India (SEBI) and National Stock Exchange (NSE) in respect of the notices sent to them. The speed post receipts along with tracking report showing successful service of notices to SEBI are a part of Diary No. 1046/1 dated 01.03.2021.

21. Learned Authorised Representative for the petitioner Companies has referred to the Clause 8(xvi) of the Scheme which provides that upon coming effect of this Scheme, all the Employees of the Transferor



Company shall become the employees of the Transferee Company, subject to the provisions hereof without any break in their service and on the basis of continuity of service and, on terms and conditions no less favourable than those on which they are engaged by the Transferor Company and without any interruption of service as a result of the Amalgamation.

22. In view of the above discussion, we conclude that the objections/observations to the Scheme received from RD, RoC, OL, BSE, and IT Department have been adequately replied by the Applicant Companies and hence, there is no impediment in approval of the Scheme.

23. The Scheme (Annexure A1) is approved and we hereby declare the same to be binding on all the shareholders and creditors of the Applicant Companies and on all concerned. While approving the Scheme, it is clarified that this order should not be construed as an order in any way granting exemption from payment of any stamp duty, taxes, or any other charges, if any, and payment in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law. With the sanction of the Scheme, the Transferor Company shall stand dissolved without undergoing the process of winding up resulting in increase in the share capital of the Transferee Company.

**AND THIS TRIBUNAL DOES FURTHER ORDER:**

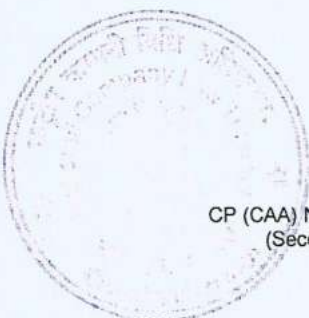
- i) That all the property, rights and powers of the Transferor Company be transferred, without further act or deed, to the Transferee Company and accordingly, the same shall pursuant to sections 230 to 232 of the Companies Act,





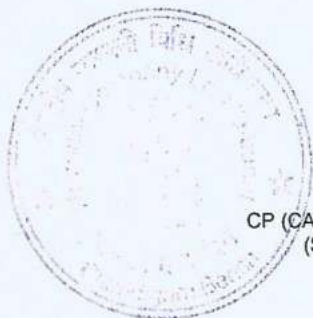
2013, be transferred to and vested in the Transferee Company for all the estate and interest of the Transferor Company but subject nevertheless to all charges now affecting the same; and

- ii) That all the liabilities and duties of the Transferor Company be transferred, without further act or deed, to the Transferee Company and accordingly the same shall pursuant to Sections 230 to 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company; and
- iii) That all the proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company; and
- iv) That all the employees of the Transferor Company shall be transferred to the Transferee Company in terms of the 'Scheme'; and
- v) That the Transferee Company shall, without further application, allot to the existing members of the Transferor Company shares of the Transferee Company to which they are entitled under the said Scheme of Amalgamation: and
- vi) The authorized share capital of the Transferee Company shall stand increased and that of Transferor Company shall stand cancelled and extinguished as provided in the Scheme and the fee, if any, paid by the Transferor Company on its authorized capital shall be set off against



any fees payable by the Transferee Company on its authorized capital subsequent to the sanction of the 'Scheme'; and

- vii) That the Applicant Companies do, within 30 days after the date of receipt of this Order, cause a certified copy of this Order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the Transferor Company shall be dissolved without undergoing the process of winding up. The concerned Registrar of Companies shall place all documents relating to the Transferor Company registered with him on the file relating to the said Transferee Company and the files relating to the Transferor and Transferee Companies shall be consolidated accordingly, as the case may be;
- viii) That the Transferee Company shall deposit an amount of ₹75,000/- with the Pay & Accounts Office in respect of the Regional Director, Northern Region, Ministry of Corporate Affairs, New Delhi, and ₹25,000/- in favour of "The Company Law Bar Association", Chandigarh within a period of four weeks from the date of receipt of certified copy of this Order; and
- ix) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.





- x) The approval / sanctioning of the scheme shall not be construed as an exemption from any of the provisions under the Income Tax Act, 1961 or the Companies Act, 2013 and that the authorities under both the Acts, are at liberty to take appropriate action, in accordance with law, if so advised.

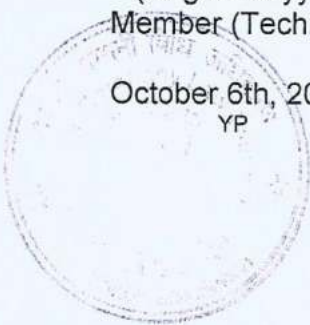
24. As per the above directions, Form No. CAA-7 of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, formal orders be issued on the petitioner companies on filing of the Schedule of Property i.e. (i) freehold property of the Transferor Company and (ii) leasehold property of the Transferor Company by way of affidavit of the Transferor Company respectively.

Copy of this order be communicated to the Authorized Representative for the Petitioner Companies.

Sd/-

(Raghu Nayyar)  
Member (Technical)

October 6th, 2021  
YP



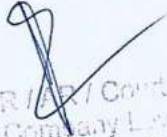
Sd/-

(Ajay Kumar Vatsavayi)  
Member (Judicial)

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OF THE ORIGINAL

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No \_\_\_\_\_  
Date of Filing of Petition As per full 150 of the NCLT Rules, 2016  
of application for NCLT \_\_\_\_\_  
No of \_\_\_\_\_ 13 \_\_\_\_\_  
Copy \_\_\_\_\_ NIL \_\_\_\_\_  
Registered \_\_\_\_\_ NIL \_\_\_\_\_  
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Date of \_\_\_\_\_ 12/10/2021  
Date of \_\_\_\_\_ 12/10/2021  
Date of \_\_\_\_\_ 12/10/2021

  
ED/DR/AR / Court Officer  
National Company Law Tribunal  
Chandigarh Bench, Chandigarh