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08

NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET OF THE HEARING ON 21<sup>st</sup> FEBRUARY, 2025, 03:00 P.M.

CP(CAA)/6/GB/2024  
(CA(CAA)/6/GB/2024)

Present: 1. Hon'ble Member (Judicial), Shri Deep Chandra Joshi  
2. Hon'ble Member (Technical), Shri Charan Singh

In the Matter of	Vinay Cement Limited And Dalmia Cement (North East) Limited.
Under Section	U/s 230-232 of Companies Act, 2013

Appearances (via video conferencing/physically)

Petitioner (s) : Dr. Swati Tejawat, CA

ORDER

Order Pronounced through VC vide separate sheets.

Sd/-  
Charan Singh  
Member (Technical)

Sd/-  
Deep Chandra Joshi  
Member (Judicial)



Zeba (PS)

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CP (CAA) No. 06/GB/2024

Connected with

CA (CAA) No. 06/GB/2024

*A Petition under Section 230 to Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 for sanction of Scheme of Arrangement;*

*In the matter of:*

**Vinay Cement Limited (CIN: U26942AS1986PLC002553)**, a company incorporated under Companies Act, 1956 and having its registered office at Jamuna Nagar, Umrangshu, Dist. North Cachar Hills, Assam-788931;

.....Demerged Company/Transferor Company

-And-

**Dalmia Cement (North East) Limited (CIN: U26942AS2004PLC007538)**, a company incorporated under Companies Act, 1956 and having its registered office at 3rd & 4th Floor, Anil Plaza II, ABC, G S Road, Guwahati Kamrup – 781005;

.....Resulting Company/Transferee Company

(Collectively referred to as “Petitioner Companies”/“Applicant Companies”/  
“Companies”)

**Coram:**

Shri Deep Chandra Joshi : Member (Judicial)

Shri Charan Singh : Member (Technical)

**Appearances (through video conferencing):**

For the Petitioners : Dr. S. Tejawat, CA

For RD : Mr. K. Aravind, AD (Office of the RD, NER)

For ROC : Mr. D. N. Chowdhury, ROC, NER



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CA (CAA) No. 06/GB/2024

Order pronounced on: 21.02.2025

ORDER

Per: Deep Chandra Joshi Member (Judicial)

1. The instant Company Petition has been filed by the Petitioner Companies under Sections 230 to 232 of the Companies Act, 2013, seeking the following reliefs:
  - a) *To confirm the demerger of the cement and mining business operation undertaking of Vinay Cement Limited ("Demerged Undertaking") to Dalmia Cement (North East) Limited with effect from the Appointed Date. i.e. 31.03.2023.*
  - b) *Such further order or orders be made and/or directions be given as this Hon'ble National Company Law Tribunal may deem fit and proper.*
2. The registered offices of the Petitioner Companies are situated in the State of Assam, within the jurisdiction of this Bench.
3. The Petition has now come up for final hearing. The submissions made by the Authorized Representative for the Petitioners are as follows: -
  - 3.1. The demerger of cement and mining business operation undertaking has been proposed for the purpose of a bigger and stronger resource base for further growth and expansion, to have better synergies, optimization of resources and overall maximization of value creation of all the stakeholders.
  - 3.2. The terms and condition of the arrangement are duly stated on the said scheme of arrangement (hereinafter referred to as "**Scheme**"). A copy of the Scheme has been annexed.
  - 3.3. As per the Scheme it is expected to have the following benefits:
    - a) The Scheme will result in pooling of existing resources of the Demerged Company having expertise in the cement and mining related operations with the Resulting Company leading to a centralized and more efficient management of funds, greater economies of scale and a bigger and stronger resource base for future growth of the group's cement business.





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- b) The Scheme will give synergies resulting in benefits of cost optimization and cost reduction by bringing similar lines of business under same roof and facilitating focused growth thereof. The Scheme will aid the Resulting Company in sharpening its competitiveness through cost saving.
- c) The Scheme will enable the Resulting Company to reduce cost of production through backward integration of supply chains i.e. use of limestone mines leased to the Demerged Company.
- d) The Scheme will result in rationalization of operations with greater degree of operational efficiency and optimum utilization of various resources.
- e) The Scheme will facilitate group's vision of consolidating cement business operations.
- f) The Demerger will enable both the Demerged Company and Resulting Company to achieve and fulfil their objectives more efficiently and offer opportunities to the management of both the Companies to pursue growth and expansion opportunity.
- g) This Scheme, as envisaged, is in the best interest of the shareholders, employees, creditors and other stakeholders of the Companies by pursuing a focused business approach under the Resulting Company, thereby resulting in overall maximization of value creation of all the stakeholders involved.
4. This Company Petition was jointly filed by Vinay Cement Limited ("VCL"), the Demerged Company and Dalmia Cement (North East) Limited ("Dalmia North East"), the Resulting Company. The petitioners came up for hearing of sanction of Scheme of Arrangement between the Demerged Company and the Resulting Company and their respective shareholders.
5. The Petitioner Companies have submitted that the Board of Directors of the Demerged Company and the Resulting Company, have at their respective meetings,

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by resolutions passed, and approved the said Scheme of Arrangement on 19.03.2024.

6. From the records, it is seen that the first motion application seeking directions for dispensing with the meeting of Secured Creditor of the Resulting Company on the basis of NOC and holding of meeting of equity shareholders and unsecured creditors of the Petitioner Companies was filed before this Tribunal *vide* Company Application No. CA (CAA) No. 6/GB/2024 and based on such joint application moved under Section 230-232 of the Companies Act, 2013, directions were issued by this Tribunal, wherein the meetings of Secured Creditor of the Resulting Company was dispensed with and meetings of equity shareholders and unsecured creditors of the Petitioner Companies was ordered to be convened *vide* Order dated 10.06.2024.
7. The Petitioner Companies submit that they have complied with the directions passed by this Tribunal *vide* order dated 10.06.2024 in Company Application No. C.A. (CAA)/6/GB/2024 and thereafter, filed a second motion joint petition before this Tribunal within the time prescribed under law.
8. The Petitioner Companies further submit that:
  - 8.1 As per directions of this Tribunal *vide* order dated 10.06.2024, the Petitioner Companies have published the paper publication notice in:
    - a) The Assam Tribune (English) on 03.07.2024
    - b) Amar Asom (Vernacular) on 03.07.2024
  - 8.2 In accordance with the order dated 10.06.2024, the Petitioner Companies have served a copy of the notice along with Scheme and the statement disclosing necessary details, on the following Authorities, namely Central Government, through the Regional Director, North-Eastern Region, Ministry of Corporate Affairs, Guwahati; Registrar of Companies, North-Eastern Region, Guwahati; Official Liquidator, High Court Guwahati; Reserve Bank of India and Income Tax Department having jurisdiction over the Petitioner Companies through both E-Mail and by Speed Post.





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9. The Regional Director, North Eastern Region, Ministry of Corporate Affairs at Guwahati had submitted its report dated 14.10.2024. The observations of the Central Government on the scheme are as under:

- a) That the report of the Registrar of Companies, Guwahati is received on 20.09.2024.
- b) The Petitioner Companies are within the jurisdiction of the Office of Regional Director (NER) Region.
- c) As per this Bench's Order dated 10.06.2024, the meeting of the equity shareholders and unsecured creditors of Resulting Company and Demerged Company was ordered to be convened at their respective Registered Office(s) on 5<sup>th</sup> August & 6<sup>th</sup> August respectively. The only secured creditor of Transferee Company has submitted NOC for the Scheme of Arrangement and the convening and holding of Meeting of Secured Creditors of the Transferee Company is was dispensed with.
- d) The Demerged Company (Vinay Cement Limited) is a subsidiary of the Resulting Company (Dalmia Cement (Northeast) Limited) with the latter holding 97.21% equity share capital of Vinay Cement Limited. Vinay Cement Limited holds 0.97% equity share capital of the Dalmia Cement (North East) Limited.
- e) The proposed Scheme of Arrangement involves demerger of undertaking comprising of cement and mining business operation of Vinay Cement Limited (Demerged Company) in to Dalmia Cement (North East) Limited (Resulting Company).
- f) The Appointed Date proposed in the Scheme of Arrangement is 31.03.2023.
- g) The objective of the scheme is to transfer the undertaking of Vinay Cement Limited (VCL) which is related to the core business of manufacturing and selling of cement and clinker of its holding company

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and transfer and vesting of the same in the Resulting Company which will enable the Resulting Company to more focus on demerged division.

- h) The Valuation Report obtained from IBBI Registered Valuer, Mr. Pradhan Priya Dass (IBBI Registration No. IBBI/RV/06/2022/I14558) dated 19.03.2024 states that Demerger of Undertaking comprising of cement and mining business operation from Vinay Cement Limited (VCL) into Dalmia Cement (North East) Limited & issue of 11% Non-cumulative Redeemable Preference Shares.
- i) The Share Exchange Ratio Report obtained from Mr. Pradhan Priya Dass dated 19.03.2024 states that 1.174 fully paid up 11% Non-Cumulative Redeemable Preference Shares of face value of Rs 10 each of Dalmia Cement (North East) Limited of every 1 fully paid up equity shares of face value of Rs. 10 each held in Vinay Cement Limited.
- j) As per clause 4.1. and 4.6. of the Scheme regarding employees, upon the coming into effect of the scheme, all employees pertaining to Demerged Undertaking and those employees as the Board of Demerged Company may determine shall become the employees of Resulting Company ("Transferred Employees of Demerged Undertaking") with effect from the Effective Date, on same terms and conditions, which as a result shall be no less favorable than those on which they are engaged as on the Effective Date, without any interruption of service as a result of Demerger and without any further act, deed or instrument on the part of the Demerged Company or the Resulting Company. Resulting Company shall continue to abide by any agreement(s)/settlement(s) entered into in respect of the Transferred Employees of Demerged Undertaking.
- k) There is no reduction in share capital & capital debt restructuring proposed through the scheme.

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- l) The aggregate assets of Transferee Company, post demerger, would be sufficient to meet all the liabilities of the Demerged Company in relation to the Demerged Undertaking & the Scheme will not adversely affect the rights of any creditors of Applicant Companies in any manner and due provisions have been made for payment of all liabilities as and when the same fall due in the usual course of business.
- m) As per the petition, there are no investigations or proceedings pending under Section 235 to 251 of the Companies Act, 1956 and/or applicable provisions of the Companies Act, 2013 against the Applicant Companies. No winding up petitions have been admitted or filed against the Applicant Companies.
- n) The proposed Demerged Company and the Resulting Company have filed their Annual Return & Balance Sheets upto 2023-24.
- o) As per the ROC, Guwahati's Report dated 20.09.2024, there are no Complaints/Technical Scrutiny/Inquiry/Inspection/Investigation is pending against the Scheme of arrangement/demerger.
- p) The appointed date of the Scheme is the 31.03.2023 or such other date as the National Company Law Tribunal may direct whereas in terms of the Circular No, 09/2019 dated 21.08.2019 on the Ministry of Corporate Affairs, "where the appointed date is chosen as a specific calendar date, it may precede the date of filing of the application for scheme of Demerger in NCLT. However, if the appointed date is significantly ante dated beyond a year from the date of filing, the justification for the same would have to be specifically brought out in the scheme and it should not be against public interest". If the application for the scheme was filed with this Tribunal after more than one year from the appointed date, the Applicants may be directed to bring out the justification for the appointed date being more than one year before date of filing of the application for the scheme, in the scheme according to the Circular.





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- q) This Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.
- r) The Petitioner Companies under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by the Demerger. Further, the approval of the scheme by this Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the petitioner companies concerned.
- s) As per the petition, the Authorized and paid-up Share capital of "DEMERGED COMPANY" and "RESULTING COMPANY":

	AUTHORISED SHARE CAPITAL	PAID UP SHARE CAPITAL
Demerged Company	Rs. 30,00,00,000 divided into Equity Share of Rs. 10/- each.	Rs. 18,89,98,700 divided into 1,88,99,870 Equity Shares of Rs. 10/- each.
Resulting Company	Rs. 25,00,00,00,000 divided into 2,43,00,00,000 Equity Shares of Rs. 10/- each and 7,00,00,000 Preference Shares of Rs. 10/- each.	Rs. 1,94,20,11,480 Equity Shares of Rs. 10/- each.

10. With respect to the observations made by the Regional Director, North Eastern Region on the scheme; dated 14.10.2024, Petitioner Companies have filed an affidavit in response to observation no. (q), stating that the Scheme enclosed to the



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Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.

11. The concerned Income Tax Department has not filed any report in respect of the application U/s 230 – 232 of the Companies Act, 2013 with respect of the assessee, i.e. **Demerged Company and Resulting Company**.
12. We have heard the submissions made by the Ld. Counsel appearing for the Petitioners and Regional Director (NER), MCA, Guwahati. In light of the above given facts and circumstances of the present company scheme petition, we perused the salient features, rationale and objects of the proposed scheme, which has been annexed and form part of the present company petition. We duly considered the same in the light of well settled legal position that the Tribunal may examine the reasonableness of the Scheme which should be fair and equitable. The approval of a Scheme by its statutory majority itself is a strong evidence of its reasonableness and if such scheme appears to be bona fide and fair then the Tribunal will not act into its merits.
13. Upon considering the entire facts and circumstances of the present company Scheme, we find that all statutory requirements of the provisions of Sections 230-232 of the Act are satisfied. The present company Scheme appears to be genuine and bona fide and it appears to be in the interest of its shareholders and creditors. Hence, it is **allowed** in terms of its prayer/relief clause. Consequently, the proposed company Scheme is hereby **allowed** with following terms and conditions:
  - 13.1 While approving the Scheme, we make it clear that this order should not be construed as an order in any way granting exemption from payment of Stamp Duty, taxes or any other charges, if any, and payment in accordance with law.
  - 13.2 The whole of the property, rights and powers of the demerged undertaking of the Demerged Company be transferred without further act or deed to the Resulting Company and accordingly the same shall pursuant to Section 232

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of the Companies Act, 2013, be transferred to and vest in the Resulting Company for all the state and interest of the Demerged Undertaking of the Demerged Company therein but subject nevertheless to all charges now affecting the same; and

- 13.3 All liabilities including taxes and charges, if any and duties of the Demerged Undertaking of the Demerged Company be transferred without further act or deed to the Resulting Company and accordingly the same shall pursuant to section 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Resulting Company without in any way obstructing compliance of depositing outstanding tax dues if any; and
- 13.4 All employees of the demerged undertaking of the Demerged Company will become employees of the Resulting Company without any break or interruption of service.
- 13.5 Appointed date of merger is 31.03.2023.
14. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme immediately.
15. The Petitioner Companies are further directed to lodge a copy of this order, the schedule of immovable assets of the Demerged Undertaking of Transferor Company as on the date of this order and the Scheme duly authenticated by the registrar of Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty, if any, on the same within 60 days from the date of the order.
16. The Petitioner Companies are further directed to file a copy of this order along with the copy of the Scheme with the concerned Registrar of Companies, electronically, along with the Form INC-28 within 30 days from the date of issuance of the certified copy of the Order by the Tribunal as per relevant provisions of the Companies Act, 2013.



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17. With the aforesaid directions, the present joint Company Petition i.e. CP (CAA)/6/GB/2024 is **allowed** and accordingly stands disposed of with the above directions and conditions.
18. The Petitioners shall supply legible print out of the scheme and schedule of assets in acceptable form to the Registry and the Registry will append such printout, upon verification to the certified copy of the order.
19. The Registry is directed to send e-mail copies of the Order forthwith to all the parties and their Ld. Counsel for their information and for taking necessary steps.
20. Certified Copy of this Order may be issued, if applied for, upon compliance of all requisite formalities.
21. File be consigned to records.

Sd/-

**Charan Singh**  
Member (Technical)

Sd/-

**Deep Chandra Joshi**  
Member (Judicial)

*Signed this on 21<sup>st</sup> Day of February, 2025*

*Nabanita S. (LRA)*

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*Ananya Datta*  
12/03/25  
BY REGISTRAR, REG. STAMP  
NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
DY NO. 25/NCLT/GB  
DATE 12/3/25

