



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA SPECIAL BENCH (COURT NO. I)

KOLKATA
C.P. NO. 1065/KB/2020

*An application u/s 66 of the Companies Act, 2013 read with the
NCLT (Procedure for Reduction of Share Capital of Company) Rules, 2016*

In the matter of:

Burnpur Cement Limited (CIN: L27104WB1986PLC040831), a company incorporated under the Companies Act, 1956 having its registered office at Village: Palashdiha, Panchgachia Road, P.O. Kanyapur, Asansol-713 341, District Burdwan, in the State of West Bengal

...Petitioner Company

Date of Pronouncement: 30.10.2024

In the matter of:

Burnpur Cement Limited

...Petitioner Company

Coram:

Smt. Bidisha Banerjee: Member (Judicial)
Shri D. Arvind: Member (Technical)



Appearances (via Hybrid Mode):

For Petitioner:

Mr Rajeev K Goel, Advocate
Mr Kartikeya Goel, Advocate



ORDER

Per: D. Arvind, Member (Technical)

1. This is a Petition filed under section 66 of the Companies Act, 2013 ('the Act') read with

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the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016. The Petitioner Company-**Burnpur Cement Limited** seeks approval of this Tribunal to the Scheme of Reduction of Capital of the Petitioner Company.

2. The Ld. Counsel for the Petitioner Company submits that members of the erstwhile management of the Petitioner Company had filed certain objections to the proposed Scheme of Reduction of Capital. The Petitioner Company has also filed a detailed Reply to the objections raised by the erstwhile management of the Petitioner Company. However, on perusal of the court record it is observed that none has appeared on behalf of the Objectors for the past several occasions.

Save as above, the Petitioner Company has not received any objection against the proposed Scheme of Reduction of Capital nor has any party controverted any averments made in the Petition.

3. The Petitioner Company ('the Company') was incorporated on 19th June, 1986 under the provisions of the Companies Act, 1956. The registered office of the Company is situated at Asansol in the State of West Bengal, which falls within the jurisdiction of this Bench.
4. The Ld. Counsel for the Petitioner Company submits that the reasons for the proposed Reduction of Share Capital are as follows:
 - a. The present issued, subscribed and paid-up share capital of the Company is Rs. 86,12,43,630 (Rupees eighty-six crores twelve lakhs forty-three thousand six hundred and thirty only) divided into 8,61,24,363 Equity Shares of Rs. 10 each.
 - b. As on 31st March, 2018, the Company has accumulated losses (debit balance of Profit & Loss Account) to the tune of Rs. 10297.34 lakhs.
 - c. In order to re-align the relation between capital & assets; and to accurately and fairly reflect the liabilities & assets of the Company in its books of accounts; and for better presentation of the financial position of the Company, the Board of Directors has



decided to write off the accumulated losses against reduction in the paid up share capital of the Company in accordance with section 66 of the Companies Act, 2013 read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 and other applicable provisions.

5. The proposed Scheme of Reduction of Capital inter alia, provides as under:
- a. Upon the Scheme coming into effect, the issued and paid-up share capital of the Company will be reduced by 80%, on proportionate basis. Accordingly, the paid-up value of each Equity Share of the Company will be reduced from Rs. 10 per share to Rs. 2 per share. Subsequent to reduction in issued and paid up value of equity shares of the Company from Rs. 10 to Rs. 2 per equity share and in terms of the provisions of section 94 of the Companies Act, 1956, section 61 of the Companies Act, 2013, and other applicable provisions, if any, every five equity shares of Rs. 2 each will be consolidated into one equity share of Rs. 10 each, fully paid up. Approval of this Scheme by the Shareholders and/or Creditors of the Company, as the case may be, and sanction by the Hon'ble National Company law Tribunal shall be sufficient compliance with the provisions of sections 61 and 64 of the Companies Act, 2013, and other applicable provisions, if any, relating to the aforesaid consolidation of face value of equity shares. It is clarified that the reduction of share capital from Rs. 10 per share to Rs. 2 per share and consolidation of every five equity shares of Rs. 2 each into one equity share of Rs. 10 each, will be executed simultaneously. The Company will issue Equity Shares (in physical or dematerialized form) having face value and paid up value of Rs. 10 per share.

Accordingly, upon coming into effect the Scheme of Reduction of Capital, the total issued and paid up Equity Share Capital of the Company shall be reduced from Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10 each, fully paid-up, to Rs. 17,22,48,730 divided into 1,72,24,873 Equity Shares of Rs. 10 each, fully paid-up.

- b. Simultaneously, the debit balance of Profit & Loss Account of the Company will be written off to the extent of amount of the aforesaid reduction of share capital. Any





amount left after writing off the debit balance of Profit & Loss Account will be credited to the Capital Reserve Account in the books of the Company.

- c. The Reduction of Capital shall be on proportionate basis and all the pre-Scheme shareholders will remain as the shareholders of the Company even after the Scheme in the same proportion, except the shareholders who are entitled to fractional shares which will be paid in terms of the Scheme.

In case any shareholder holding equity shares in the Company is such that the member becomes entitled to a fraction of an equity share of the Company, upon coming into effect the Scheme of Reduction of Capital, then the Company shall not issue fractional share to such shareholder but shall instead consolidate all such fractional entitlements to which the Shareholders of the Company may be entitled and issue consolidated equity shares to a Director or any other Key managerial Personnel of the Company as may be nominated by the Board of Directors in that behalf.

- d. The said Director or any other Key managerial Personnel of the Company as may be nominated by the Board of Directors in that behalf shall hold the shares issued due to fractional entitlements in trust of the shareholders entitled for fractional entitlement and shall, at his discretion, sell such shares in the open market and distribute the net sale proceeds (after deduction of the expenses incurred) to the shareholders respectively entitled to the same in proportion to their fractional entitlements.
6. The Petitioner Company submits that the issued, subscribed, and paid-up share capital of the petitioner company pre and post-the reduction of capital shall be;

Sl. No.	Category	Pre-Scheme (Equity Shares of Rs. 10 each)		Post-Scheme (Equity Shares of Rs. 10 each)	
		No. of Shares	%	No. of Shares	%





1.	Promoter	2,37,90,973	27.62	47,58,195	27.62
2.	Non-Promoter (Public)	6,23,33,390	72.38	1,24,66,678	72.38
	Total	8,61,24,363	100.00	1,72,24,873	100.00

7. The Ld. Counsel for the Petitioner Company submits that the Petitioner Company is authorised by Article No. 3.7 of the Article of Association of the Company to reduce its share capital.
8. It is submitted by the Ld. Counsel for the Petitioner Company that the Company had received a notice from the Registrar of Companies, West Bengal, Kolkata, under section 206 of Companies Act 2013, in connection with the scrutiny of the Audited Financial Statements of the Company for the year ended 31st March, 2018. The Company had provided all the documents and information sought in this regard from time to time. Currently, there is no further communication for last more than six months in this matter. Save as mentioned above, no proceeding for inspection, inquiry or investigation under the provisions of the Companies Act, 2013, or under the provisions of the Companies Act, 1956, is pending against the Petitioner Company. The Petitioner Company has been paying all its dues on time and has honored its commitments and has not defaulted in any of its obligations.
9. It is submitted by the Ld. Counsel for the Petitioner Company that, the Board of Directors of the Petitioner Company in the meeting held on 17th January, 2019 considered and unanimously approved the proposed Scheme of Reduction of Capital of Burnpur Cement Ltd from Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10 each, fully paid-up, to Rs. 17,22,48,730 divided into 1,72,24,873 Equity Shares of Rs. 10 each, fully paid-up. A certified copy of the extracts of the minutes of the above-mentioned Board meeting held on 17th January, 2020 is annexed to the Petition as **Annexure A-4** on Page No. 186 to 189.
10. It is further submitted by the Ld. Counsel for the Petitioner Company that in terms of the provisions of section 66(1) of the Companies Act, 2013, and other applicable provisions, if any, the proposed Scheme of Reduction of Capital has been duly approved by the





Shareholders of the Company. The following Special Resolution was passed by the Shareholders of the Company:

“Resolved that pursuant to the provisions of Clause 3.7 of the Articles of Association of the Company, section 66 of the Companies Act, 2013, the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016, and other applicable provisions, if any, and subject to the approval of the Hon’ble National Company Law Tribunal and/or other competent authorities, if any; the consent of the members of the Company be and is hereby given for the proposed reduction of paid-up share capital of the Company by 80%, on proportionate basis and writing off accumulated losses of the Company against such reduction of capital.

Resolved further that the salient features/terms and conditions of the proposed reduction of share capital, as set out in the draft Scheme of Reduction of Capital, which, inter-alia, include the following:

- a. *Upon the Scheme coming into effect, the issued and paid-up share capital of the Company will be reduced by 80%, on proportionate basis. Accordingly, the paid-up value of each Equity Share of the Company will be reduced from ₹10 per share to ₹2 per share. Subsequent to reduction in issued and paid up value of equity shares of the Company from ₹10 to ₹2 per equity share and in terms of section 61 of the Companies Act, 2013, and other applicable provisions, if any, every five equity shares of ₹2 each will be consolidated into one equity share of ₹10 each, fully paid up. Approval of the Scheme by the Shareholders and/or Creditors of the Company, as the case may be, and sanction by the Hon’ble National Company law Tribunal shall be sufficient compliance with the provisions of sections 61 and 64 of the Companies Act, 2013, and other applicable provisions, if any, relating to the aforesaid consolidation of face value of equity shares. It is clarified that the reduction of share capital from ₹10 per share to ₹2 per share and consolidation of every five equity shares of ₹2 each into one equity share of ₹10 each, will be implemented simultaneously. The Company will issue Equity Shares (in physical or dematerialized form) having face value and paid up value of ₹10 per share.*

Accordingly, upon coming into effect of the Scheme of Reduction of Capital, the total issued and paid up Equity Share Capital of the Company shall be reduced from ₹86,12,43,630 divided into 8,61,24,363 Equity Shares of ₹10 each, fully paid-up, to ₹17,22,48,730 divided into 1,72,24,873 Equity Shares of ₹10 each, fully paid-up.





- b. *Simultaneously, the debit balance of Profit & Loss Account of the Company will be written off to the extent of the amount of the aforesaid reduction of share capital. Any amount left after writing off the debit balance of Profit & Loss Account will be credited to the Capital Reserve Account in the books of the Company.*
- c. *The Reduction of Capital shall be on proportionate basis and all the pre-Scheme shareholders will remain as the shareholders of the Company even after the Scheme in the same proportion, except the shareholders who are entitled to fractional shares which will be paid in terms of the Scheme.*
- d. *In case any shareholder holding equity shares in the Company is such that the member becomes entitled to a fraction of an equity share of the Company, upon coming into effect the Scheme of Reduction of Capital, then the Company shall not issue fractional share to such shareholder but shall instead consolidate all such fractional entitlements to which the Shareholders of the Company may be entitled and issue consolidated equity shares to a Director or any other Key Managerial Personnel of the Company, as may be nominated by the Board of Directors in that behalf.*

The said Director or any other Key Managerial Personnel shall hold the shares issued due to fractional entitlements in trust of the shareholders entitled for fractional entitlement and shall, at his discretion, sell such shares in the open market and distribute the net sale proceeds (after deduction of the expenses incurred) to the shareholders respectively entitled to the same in proportion to their fractional entitlements.

- e. *It is, however, clarified that the proposed reduction in share capital of the Company would not involve either the diminution of any liability in respect of un-paid share capital or payment to any shareholder of any paid-up share capital. The Company is merely proposing to reduce part of its paid share capital and to write off its accumulated losses against such reduction. Accordingly, the Creditors of the Company would not be adversely affected by the proposed reduction of share capital.*

be and are hereby approved in specific.

Resolved further that for the purpose of giving effect to this Resolution, the Board of Directors of the Company (hereinafter called the 'Board', which term shall be deemed to include any Committee(s) so authorised by the Board of Directors, or any person authorised by the Board of Directors or such Committee(s) to exercise its powers including the powers conferred by this Resolution) or any officer so authorized by the Board, be and are hereby authorized on behalf of the Company to perform all such acts, deeds, matters and things as it may, in its absolute discretion,





deem fit, necessary, proper or desirable, including but not limited to preparing, finalizing, signing, submitting, filing, any undertaking, application, representation, petition, letter, form, deed, and any other documents in respect thereof, and / or to engage any advisor, consultant, agent or intermediary, as may be deemed necessary and / or to seek the requisite approvals, as may be applicable, from the appropriate authorities including but not limited to the National Company Law Tribunal, Stock Exchanges where the securities of the company are listed, SEBI or other appropriate authorities and/or to represent the Company before the said authorities and / or to settle any question, difficulty, doubt that may arise, if any, with regard to this dealing and / or to make necessary adjustment(s) to the accounts and / or reconsider the matter due to change in circumstances as it may in its absolute discretion deem fit, without being required to seek any further consent or approval of the Members or otherwise to the end and intent that the Members shall be deemed to have given their approval thereto expressly by the authority of this resolution.”

A certified copy of the Special Resolution passed by the Equity Shareholders of the Petitioner Company on 23rd April, 2020 is annexed with the Petition as **Annexure: A-6** from Page No. 199 to 209 of the Petition.

11. It is stated that the Petitioner Company has on 29th May, 2020, the Petitioner Company has about 3 (three) Secured Creditors. List of Secured Creditors of the Petitioner Company, duly certified by two Directors along with a certificate by the Statutory Auditors, is enclosed with the Petition as **Annexure: A-8** on Page No. 276 to 277.
12. It is further stated that as on 29th May, 2020, the Petitioner Company has about 507 (five hundred and seven) Un-secured Creditors. List of Un-secured Creditors of the Petitioner Company, duly certified by two Directors along with a certificate by the Statutory Auditors, is enclosed herewith and collectively marked as **Annexure: A-9** on page No. 278 to 303.
13. It is further stated that the Petitioner Company has not accepted any public deposit. Accordingly, it is confirmed that the Petitioner Company is not in arrears in repayment of any deposits accepted by it, either before or after the commencement of the Companies Act, 2013, or the interest payable thereon. A Declaration from the Whole Time Director of the Petitioner Company and a Certificate from the Statutory Auditors of the Petitioner



Company to the effect that as on the date of filing of the Application, the Petitioner Company is not in arrears in repayment of the deposits or the interest thereon, are enclosed with the Petition as **Annexure: A-14 and A-15, respectively** on Page No. 320 326.

14. Learned Counsel for the Petitioner Company submits that a certificate from the Statutory Auditor of the Petitioner Company stating that that the provisions relating to the accounting treatment for the proposed Reduction of Capital, as contained in the Scheme of Reduction of Capital, are in conformity with the applicable provisions of the Companies Act, 2013, Accounting Standards prescribed under section 133 of the Companies Act, 2013, and Generally Accepted Accounting Principles in India (Indian GAAP), as the case may be, is annexed to the Petition as **Annexure: A-13** on Page No. 319.

15. It is further stated that the proposed reduction will not cause any prejudice to any creditor of the Petitioner Company. The reduction of capital does not involve either diminution of any liability in respect of unpaid capital or the payment to any shareholder of any unpaid capital. Further, the proposed adjustment would not in any way adversely affect the ordinary operations of the Company or ability of the Company to honor its commitments or to pay its debts in the ordinary course of business.

16. It is also stated that no proceedings for winding up are initiated or are pending against the Petitioner Company.

17. This Tribunal vide its order dated 18th December, 2020, directed the Petitioner Company to issue notice in Form No. RSC-2 to the Central Government through the Regional Director, Eastern Region and the Registrar of the Companies, West Bengal, the Securities and Exchange Board India, Mumbai and also to the Secured and Un-secured Creditors of the Company in Form No. RSC-3 seeking their representations and objections, if any. The Petitioner Company was also directed to publish notice in newspapers in "**Business Standard**" (English, Kolkata Edition) in "**Aajkal**" (Bengali, Kolkata Edition). It was also directed that representation, if any, under section 66(2) of the Companies Act, 2013 may be filed within three months from the date of publication of notice.





18. In pursuance of the aforesaid order dated 18th December, 2020, the Petitioner Company has filed an Affidavit confirming due compliance of the directions issued by this Tribunal.
19. The RD has filed his reply affidavit dated 28th October, 2022 ("RD Affidavit") which has been dealt with by the Petitioner Company by its Rejoinder Affidavit dated 3rd June, 2023 ("Rejoinder"). The observations of the RD and responses of the Petitioner Company are summarized as under:

a) Paragraph No. 2 (a) of the RD Affidavit:

"That it is submitted that the Registrar of Companies, West Bengal vide its Report dated 22/09/2021 has made some observations against the affairs of the Applicant Company which, inter alia, stated that many prosecutions including prosecutions under Section 205C read with Section 629A of the Companies Act, 1956 are pending against the Applicant Company, non-filing of Form MGT-14 under Section 179(3)(g) of the Companies Act, 2013 for the financial year 31/03/2019, non-filing of affidavit verifying list of creditors of the Company and on some other issues. Copy of the said report marked as Annexure-I is enclosed herewith for perusal and ready reference."

Paragraph No. 5 (a) of the rejoinder:

"Pointwise Reply to the observations made by the Learned Registrar of Companies, Kolkata are as follows:

- i. Prosecution proceeding under Section 205C read with Section 629A of the Companies Act 1956, is pending before the Hon'ble Chief Judicial Magistrate, Alipore.*
- ii. With regard to prosecution under Section 129 and 134 of the Companies Act, 2013, it is submitted that the Hon'ble Chief Metropolitan Magistrate vide his Order dated 26th February, 2021, has returned the aforesaid Compliant being not maintainable.*

A copy of the Order dated 26th February, 2021 passed by the Hon'ble Chief Metropolitan Magistrate is enclosed herewith and marked as Annexure: 1.





- iii. *Prosecution proceeding under Section 166 and 129 of the Companies Act 2013, is pending before the Hon'ble Chief Judicial Magistrate, Alipore.*

It may, however, be noted that the present Scheme of Reduction of Share Capital will not hinder or adversely affect any of the proceedings against the Petitioner Company in any manner. The Company will remain in existence even after the approval of the proposed reduction of share capital. It is pertinent to mention that there is no bar or restriction on approval of the proposed reduction of share capital during the pendency of the prosecution proceedings against the Petitioner Company. We do hereby undertake to comply with any order passed in the aforesaid matters under the applicable provisions of law.

- iv. *With regard to filing of e-Form MGT-14, it is submitted that the Petitioner Company has already filed the requisite e-Form MGT-14 in terms of the provisions of Section 179(3)(g) of the Companies Act, 2013, for the financial year ended 31st March, 2019.*

Copy of e-Form MGT-14 along with proof of filing is enclosed herewith and marked as Annexure: 2.

- v. *With regard to service of Notice of EGM to the Shareholders of the Petitioner Company, it is submitted that the Extra Ordinary General Meeting for approval of the proposed Scheme of Reduction of Share Capital of Burnpur Cement Ltd and other connected matters, was scheduled to be held on Thursday, 26th March, 2020 at 12:00 Noon. The Petitioner Company duly circulated the Notice of the aforesaid Extra Ordinary General Meeting (EGM) accompanied by the Explanatory Statement, along with other documents to all its Shareholders. However, before the scheduled date of convening of the meeting, the Government of India ordered a complete nationwide lockdown to contain the COVID-19 pandemic from 25th March, 2020 onwards. Since the date of the aforesaid meeting fell during the lockdown period, the meeting was forced to be postponed indefinitely. The Petitioner Company intimated the National*





Stock Exchange of India Ltd (NSE) and BSE Ltd (BSE) of the postponement of its EGM and also placed a notice for the same on its website. The Petitioner Company informed the postponement of the aforesaid meeting by placing a notice on its website and by way of newspaper publication in Financial Express (English, All India Edition) and Aajkal (Bengali, Kolkata Edition) both dated 25th March, 2020. Subsequently, in view of the Circular issued by the Ministry of Corporate Affairs (MCA), the management of the Petitioner Company decided to conduct its EGM on 23rd April, 2020 through Video Conferencing. The Petitioner Company published notice of convening of its EGM through Video Conferencing on its website and by way of newspaper publication in Business Standard (English, All India Edition) and Aajkal (Bengali, Kolkata Edition) both dated 18th April, 2020. It is, accordingly, confirmed that the Petitioner Company has made due compliance with all the applicable provisions of the Companies Act, 2013, read with the Circulars issued by the Ministry of Corporate Affairs, with respect to the convening and holding of General Body Meeting of Shareholders of the Petitioner Company.

*Copies of the proof of dispatch of Notice along with Explanatory Statement and other documents of the EGM are enclosed herewith and collectively marked as **Annexure: 3**.*

*A copy of each of the cuttings of Financial Express (English, All India Edition) and Aajkal (Bengali, Kolkata Edition) both dated 25th March, 2020 are annexed herewith and marked as **Annexure: 4**.*

*A copy of each of the cuttings of Business Standard (English, All India Edition) and Aajkal (Bengali, Kolkata Edition) both dated 18th April, 2020, are annexed herewith and marked as **Annexure: 5**.*

- vi. *With regard to dispatch of notice of the proposed Scheme of Reduction of Share Capital to the Secured and Un-secured Creditors, it is submitted that in terms of the Order dated 18th December, 2022, passed by the Hon'ble Tribunal, Notice of the Scheme of Reduction of Share Capital was duly served upon all the Secured and Un-secured Creditors of the Petitioner*





Company. Proof of dispatch of the aforesaid notice to the Secured and Un-secured Creditors has already been filed with the Hon'ble Tribunal along with affidavit of compliance vide Diary no. 1908134015982020/1 dated 15th February, 2021.

- vii. With regard to affidavit verifying the lists of Secured and Un-secured Creditors of the Petitioner Company, it is submitted that the Petitioner Company has filed an affidavit in support of the Company Petition wherein all the annexures and documents including list of Secured and Un-secured Creditors of the Petitioner Company filed along with the Petition, have been certified and confirmed. Notwithstanding the above, fresh Affidavits verifying the lists of Secured and Un-secured Creditors are enclosed herewith and collectively marked as **Annexure: 6.**”

b) Paragraph No. 2 (b) of the RD Affidavit:

“As per Petition and Scheme, the issued and paid up share capital of the Company is proposed to be reduced by 80% on proportionate basis and accordingly, the proposed reduction of Share Capital of the Applicant Company shall be from ₹86,12,43,630 divided into 8,61,24,363 Equity Shares of ₹10 each fully paid up to ₹17,22,48,730 divided into 1,72,24,873 Equity Shares of ₹10 each fully paid up. Simultaneously, the debit balance of profit and Loss Account of the Company will be written off to the extent of amount of the aforesaid reduction of share capital.”

Paragraph No. 5 (b) of the rejoinder:

“The contents of para 2. (b) are matter of record and need no reply”

c) Paragraph No. 2 (c) of the RD Affidavit:

“The Applicant company is listed Company. The BSE Limited and NSE Limited have issued their ‘Observation letter’ for draft Scheme of Reduction of Capital of the Company. Copies of the said letters collectively marked as Annexure-11 is enclosed herewith for perusal and ready reference.”

Paragraph No. 5 (c) of the rejoinder:





"The contents of para 2. (c) are matter of record and need no reply."

d) Paragraph No. 2 (d) of the RD Affidavit:

"It is submitted that affairs of the Applicant Company was under Inspection under Section 206 of the Companies Act, 2013. However, based on the nature of violations and findings during the course of Inspection of the Company, the concerned IO submitted Inspection Report under Section 208 of the Companies Act, 2013 recommending Investigation under Section 210 of the Companies Act, 2013 into the affairs of the Company, which is under consideration of Ministry."

Paragraph No. 5 (d) of the rejoinder:

"With regard to inspection under section 206 of the Companies Act, 2013, it is submitted that the office of the Directorate General of Corporate Affairs had directed to conduct an inquiry under Section 206(4) of the Companies Act, 2013. The Petitioner Company has already provided all the information/documents asked by various offices of the Ministry of Corporate Affairs from time to time. It is further confirmed that at present, nothing is pending at the end of the Petitioner Company in the regard. It is also submitted that subsequent to the last correspondence made by the Petitioner Company on 19th April, 2021, there has been no further letter/communication made by the DGCA/ROC. It is pertinent to note any ongoing proceedings, if any, against the Petitioner Company will not be affected in any manner by the sanction of the present Scheme of Reduction of Share Capital. It is pertinent to note that the Learned ROC has only reported the above mentioned inquiry against the Company and has not objected to the sanction of the Scheme of Reduction of Share Capital on this ground.

We do hereby undertake that the Petitioner Company will comply with all the directions given by the DGCA/RD/ROC or any other authority with regard to the aforesaid proceedings; and will take appropriate steps in terms of the provisions of the law, to the extent required, on finalization of the said proceeding. It may be noted that there is no bar on sanction of the Scheme of Reduction of Capital, pending any such inquiry against the Petitioner Company."

e) Paragraph No. 2 (e) of the RD Affidavit:





"That it is submitted that as per Petition, the Company has accumulated losses (debit balance of Profit & Loss Account) to the tune of ₹10,297.34 lakhs as on 31/03/2018. The proposed reduction of Share Capital of the Applicant Company shall be from ₹86,12,43,630 divided into 8,61,24,363 Equity Shares of ₹10 each fully paid up to ₹17,22,48,730 divided into 1,72,24,873 Equity Shares of ₹10 each fully paid up. Therefore, in view of sizeable reduction of share capital, the views of Income Tax Department on Taxable impact may be of significance in the matter."

Paragraph No. 5 (e) of the rejoinder:

"With regard to taxable impact of the proposed reduction of share capital, it is submitted that under the present Scheme of Reduction of Share Capital the paid up share capital of the Petitioner Company shall be reduced by 80%, on proportionate basis and the accumulated losses shall be written off against such reduction of capital. It is further submitted that such reduction of capital against the accumulated losses is merely a ledger entry and there shall be no payout to any of the Shareholders of the Petitioner Company. Hence, the Scheme of Reduction of Capital will have no tax impact. Accordingly, the views of the Income Tax Department may not be required in the matter. It is pertinent to mention that the Petitioner Company will remain in existence and if any demand is raised by the Income Tax Department or any other competent authority, the Petitioner Company will pay the same in accordance with law. A copy of certificate from the Statutory Auditors of the Petitioner Company, M/s K. Pandeya & Co., Chartered Accountants, confirming the aforesaid is enclosed herewith and marked as Annexure: 7."

20. We have heard the Ld. Counsel appearing on behalf of the Petitioner Company and perused the affidavit of the Central Government filed through the Regional Director, Eastern Region and the Registrar of the Companies, West Bengal, the Securities and Exchange Board India, Mumbai. It appears from the materials on record that the instant Petition has been accompanied with all the documents as required under Rule 2 of the NCLT (Procedure for reduction of share capital of the company) Rules, 2016.

21. Heard submissions made by the Learned Counsel appearing for the Petitioner Company and the Authorized Person from Regional Director, MCA. Upon perusing





the records and documents in the instant proceedings and considering the submissions, we allow the petition and make the following orders:

- a. Approval is here by granted to the Scheme of Reduction of Share Capital of Petitioner Company by approving the minutes of the EGM dated 23rd April, 2020, wherein the members of the Petitioner Company resolved for the Reduction of Share Capital of the Company, as prescribed under Section 66 of the Companies Act, 2013, to reduce the total Issued, Subscribed and Paid-up Equity Share Capital of the Company from ₹86,12,43,630 divided into 8,61,24,363 Equity Shares of ₹10 each, fully paid-up, to ₹17,22,48,730 divided into 1,72,24,873 Equity Shares of ₹10 each, fully paid-up. Simultaneously, the debit balance of Profit & Loss Account of the Company will be written off to the extent of the amount of the aforesaid reduction of share capital. Any amount left after writing off the debit balance of Profit & Loss Account will be credited to the Capital Reserve Account in the books of the Company.
- b. The Minutes of the Extra Ordinary General Meeting of the Petitioner Company held on 23rd April, 2020 appended to the Petition and set forth here in below, is hereby approved subject to just all exceptions.
- c. This sanction will also not affect any action pending or contemplated by any Government authority or regulatory or statutory authorities for violation of any provision of the law for the time being in force.
- d. A certified copy of this order including the Minutes as approved be delivered to the Registrar of Companies within thirty days of receipt of the order as per provisions of sub-section (5) of section 66 of the Companies Act, 2013, who shall register the same and issue a certificate to that effect in Form No. RSC-7.
- e. The Petitioner shall, after receiving such certificate, publish Notice of Registration of Order and Minute once in leading English newspaper and once in Bengali Newspaper having wide circulation in the State of West Bengal within two weeks thereafter.





f. The Petitioner Company shall comply with the statutory filing requirements, if any, required under the Companies Act, 2013 and the Rules notified thereunder as may be applicable including effecting appropriate accounting treatment relating to thus extinguished share capital.

22. The Petitioner Company shall supply legible print out of the scheme in acceptable form to the Registry and the Registry will append such printout, after verification, to the certified copy of the order,

23. All concerned regulatory authorities to act on the certified copy of the Order including the Minutes forming part of the petition.

24. C.P.NO. 1065/KB/2020 is hereby **disposed of** on the above terms.

The Minutes referred to above

“The paid-up equity share capital of Burnpur Cement Ltd is henceforth Rs. 17,22,48,730 (Rupees seventeen crore twenty-two lakhs forty-eight thousand seven hundred and thirty) divided into 1,72,24,873 (one crore seventy two lakhs, twenty four thousand eight hundred and seventy three) Equity Shares of Rs. 10/- (Rupees ten only) each.”

Sd/-
D. Arvind
Member (Technical)

Sd/-
Bidisha Banerjee
Member (Judicial)

Signed, this the 30th day of October, 2024

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No. 1363/2024
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of application for Copy 06/11/2024
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Date of Receipt &
Record of Copy 27/11/2024
Date of Preparation of Copy 27/11/2024
Date of Deliver of Copy 27/11/2024

JR / DR / AR / Court Officer
National Company Law Tribunal
Kolkata Bench

SCHEME OF REDUCTION OF CAPITAL
OF
BURNPUR CEMENT LTD
AND ITS RESPECTIVE SHAREHOLDERS AND CREDITORS
UNDER SECTION 66 OF THE COMPANIES ACT, 2013

A. Preamble of the Scheme:

This Scheme of Reduction of Capital is made by **Burnpur Cement Ltd (the Company)**, pursuant to the provisions of section 66 of the Companies Act, 2013, read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 and other applicable provisions, if any. The Scheme provides for the reduction of paid up share capital of Burnpur Cement Ltd by 80%, on proportionate basis and writing off accumulated losses against such reduction of capital.

Burnpur Cement Ltd is a Company registered under the provisions of the Companies Act, 1956 and having its registered office situated at Village: Palashdiha, Panchgachia Road, Kanyapur, Asansol-713341, West Bengal. The Company is engaged in the business of manufacturing and sale of cement and other related activities.

The present Issued, Subscribed and Paid-up Share Capital of the Company is Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10/- each.

The Financial Highlights of the Company as per the Audited Financial Statements for the financial year ended March 31, 2018 is given below:

Particulars	Amount (Rs. in lakhs)
Paid-up Share Capital	8612.44
Capital Reserves	10.09
Securities Premium Account	1161.04
General Reserves	10.00
Revaluation Reserves	462.17
Profit & Loss A/c (Accumulated Losses)	(10297.34)
Total Reserves & Surplus	(8654.04)

For BURNPUR CEMENT LIMITED
 Company Secretary

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For Burnpur Cement Limited
 Indrajeet Kumar Tiwary
 Wholesale Director



ASIS KUMAR SEN
 NOTARY
 2338 No.-13002/18
 KOLKATA
 EXPIRY DATE
 31.12.23
 Notary, Govt. of India




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Revenue from Operations	5383.55
Total Revenue	5399.11
Profit/ (loss) for the year	(4449.44)

Due to heavy losses in the Company in the last few years, the capital of the Company has been eroded and the accumulated losses in the Company is at Rs. 10297.34 lakhs as on March 31, 2018.

B. Rational and purpose of the Scheme:

The present issued, subscribed and paid-up share capital of the Company is Rs. 86,12,43,630 (Rupees eighty-six crores twelve lakhs forty-three thousand six hundred and thirty only) divided into 8,61,24,363 Equity Shares of Rs. 10 each.

As on 31st March, 2018, the Company has accumulated losses (debit balance of Profit & Loss Account) to the tune of Rs. 10297.34 lakhs.

In order to re-align the relation between capital & assets; and to accurately and fairly reflect the liabilities & assets of the Company in its books of accounts; and for better presentation of the financial position of the Company, the Board of Directors has decided to write off the accumulated losses against reduction in the paid up share capital of the Company in accordance with section 66 of the Companies Act, 2013 read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 and other applicable provisions.

C. Parts of the Scheme of Reduction of Share Capital:

This Scheme provides for matters connected with the aforesaid reduction of capital. Accordingly, this Scheme is divided into the following parts:

- i. **Part-1** which deals with the Definitions and Share Capital;
- ii. **Part-2** which deals with the Reduction of Share Capital;
- iii. **Part-3** which deals with the General Clause, other Terms and Conditions;

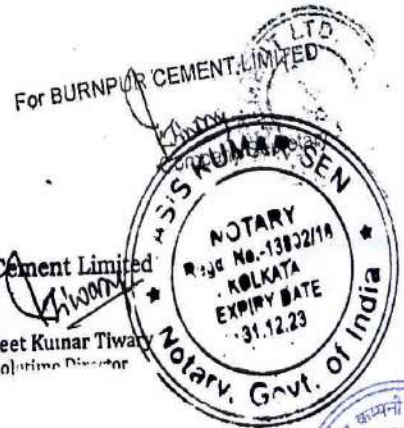
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For Burnpur Cement Limited

Indrajeet Kumar Tiwari
Whole-time Director



PART 1

DEFINITIONS AND SHARE CAPITAL

DEFINITIONS

In this Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the meaning as under:

- 1.1 "Act" means the Companies Act, 2013 and the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016.
- 1.2 "Board of Directors" in relation to the Petitioner Company, shall, unless it is repugnant to the context or otherwise, include a Committee of Directors or any person authorised by the Board of Directors or such Committee of Directors.
- 1.3 "BSE" means the BSE Limited;
- 1.4 "NSE" means the National Stock Exchange of India Limited;
- 1.5 "Petitioner Company" or "the Company" means **Burnpur Cement Ltd** [Corporate Identification No. (CIN): L 27104 WB 1986 PLC 040831] was originally incorporated under the provisions of the Companies Act, 1956, as a private limited company with the name and style as 'Ashoka Concrete & Allied Industries Pvt Ltd' vide Certificate of Incorporation dated 19th June, 1986 issued by the Registrar of Companies, West Bengal.

Name of the Company was changed to 'Burnpur Cement Pvt Ltd' vide Fresh Certificate of Incorporation dated 18th September, 2001 issued by the Registrar of Companies, West Bengal.

The Company was converted into a public limited company and name of the Company was changed to 'Burnpur Cement Ltd' vide Fresh Certificate of Incorporation dated 12th November, 2001.

- 1.6 "Effective Date" means the date on which the certified copy of the order passed by the Hon'ble National Company Law Tribunal, Kolkata, sanctioning the Reduction of Capital is filed with the Registrar of Companies, West Bengal, Kolkata. Any reference in the Scheme to "upon the Scheme becoming effective" or "effectiveness of the

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For Burnpur Cement Limited
Indrajeet Kumar Tiwari
Wholetime Director

For BURNPUR CEMENT LIMITED

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NOTARY
Page No. 13102/19
KOLKATA
EXPIRY DATE
31.12.23

National Company Law Tribunal
Kolkata-Bench
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Scheme" or "Scheme coming into effect" shall mean the "Effective Date".

- 1.7 "Record Date" means the date to be decided by the Board of Directors or a committee for the purpose of giving effect to the orders of the Hon'ble National Company Law Tribunal sanctioning the Scheme.
- 1.8 "Scheme" means this Scheme of Reduction of Capital as provided herein in its present form or with such alterations/ modifications as may be approved or Imposed or directed by the any of the Regulatory Authorities and may be approved by Hon'ble National Company Law Tribunal.
- 1.9 "Shareholders" means the person registered (whether registered owner of the shares or beneficial owner of the shares) as holder of equity shares of the Company. The word "Shareholder" and "Member" are used to denote the same meaning and are used interchangeably.
- 1.10 "Shares" means the equity shares of Rs. 10 each of the Company unless otherwise specified in the context thereof.

All terms and words not defined in the Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act, Securities Contract Regulation Act, 1956, Securities and Exchange Board of India Act, 1992, Depositories Act, 1996, Listing Regulations, Listing Agreement and other applicable Laws, rules and regulations, bye - laws as the case may be or any statutory modifications or re-enactments thereof from time to time.

SHARE CAPITAL

The present Authorised Share Capital of the Petitioner Company is Rs. 103,00,00,000 divided into 10,30,00,000 Equity Shares of Rs. 10 each. The present Issued, Subscribed and Paid-up Share Capital of the Company is Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10 each.

All the equity shares of the Company are fully paid-up and there is no partly paid-up share in the Company.

ASIS KUMAR SEN
 NOTARY
 Regd. No. - 13802/14
 KOLKATA
 EXPIRE DATE
 31.12.23
 For Burnpur Cement Limited
 M.P. Govt. of India
 Company Secretary

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For Burnpur Cement Limited
 Indrajeet Kumar Tiwary
 Wholtime Director



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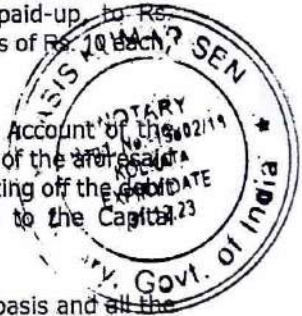
PART 2
REDUCTION OF CAPITAL

2.1 Reduction of Capital of the Company

- a. Upon the Scheme coming into effect, the issued and paid-up share capital of the Company will be reduced by 80%, on proportionate basis. Accordingly, the paid-up value of each Equity Share of the Company will be reduced from Rs. 10 per share to Rs. 2 per share. Subsequent to reduction in issued and paid up value of equity shares of the Company from Rs. 10 to Rs. 2 per equity share and in terms of the provisions of section 94 of the Companies Act, 1956, section 61 of the Companies Act, 2013, and other applicable provisions, if any, every five equity shares of Rs. 2 each will be consolidated into one equity share of Rs. 10 each, fully paid up. Approval of this Scheme by the Shareholders and/or Creditors of the Company, as the case may be, and sanction by the Hon'ble National Company Law Tribunal shall be sufficient compliance with the provisions of sections 61 and 64 of the Companies Act, 2013, and other applicable provisions, if any, relating to the aforesaid consolidation of face value of equity shares. It is clarified that the reduction of share capital from Rs. 10 per share to Rs. 2 per share and consolidation of every five equity shares of Rs. 2 each into one equity share of Rs. 10 each, will be executed simultaneously. The Company will issue Equity Shares (in physical or dematerialized form) having face value and paid up value of Rs. 10 per share.

Accordingly, upon coming into effect the Scheme of Reduction of Capital, the total issued and paid up Equity Share Capital of the Company shall be reduced from Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10 each, fully paid-up to Rs. 17,22,48,730 divided into 1,72,24,873 Equity Shares of Rs. 10 each, fully paid-up.

- b. Simultaneously, the debit balance of Profit & Loss Account of the Company will be written off to the extent of amount of the aforesaid reduction of share capital. Any amount left after writing off the debit balance of Profit & Loss Account will be credited to the Capital Reserve Account in the books of the Company.
- c. The Reduction of Capital shall be on proportionate basis and all the pre-Scheme shareholders will remain as the shareholders of the Company even after the Scheme in the same proportion, except the



For BURNPUR CEMENT LIMITED
Kiwomy
Company Secretary

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For Burnpur Cement Limited
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Indrajeet Kumar Tiwary
Wholetime Director



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shareholders who are entitled to fractional shares which will be paid in terms of the Scheme.

- d. In case any shareholder holding equity shares in the Company is such that the member becomes entitled to a fraction of an equity share of the Company, upon coming into effect the Scheme of Reduction of Capital, then the Company shall not issue fractional share to such shareholder but shall instead consolidate all such fractional entitlements to which the Shareholders of the Company may be entitled and issue consolidated equity shares to a Director or any other Key managerial Personnel of the Company as may be nominated by the Board of Directors in that behalf.

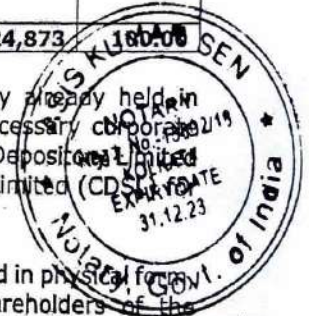
The said Director or any other Key managerial Personnel of the Company as may be nominated by the Board of Directors in that behalf shall hold the shares issued due to fractional entitlements in trust of the shareholders entitled for fractional entitlement and shall, at his discretion, sell such shares in the open market and distribute the net sale proceeds (after deduction of the expenses incurred) to the shareholders respectively entitled to the same in proportion to their fractional entitlements.

- e. The Pre and Post Reduction Shareholding Pattern of the Company will be as follow:

Sl. No.	Category	Pre-Scheme (Equity Shares of Rs. 10 each)		Post-Scheme (Equity Shares of Rs. 10 each)	
		No. of Shares	%	No. of Shares	%
1.	Promoter	2,37,90,973	27.62	47,58,195	27.62
2.	Non-Promoter (Public)	6,23,33,390	72.38	1,24,66,678	72.38
	Total	8,61,24,363	100.00	1,72,24,873	

- f. In respect of the equity shares in the Company already held in dematerialized form, as on the Record Date, necessary corporate action shall be executed with National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL) effecting the aforesaid reduction of capital.

In respect of the equity shares of the Company held in physical form, as on the Record date, each such equity shareholders of the Company holding such share shall have the option, to be exercised by way of giving a notice to the Company on or before the Record



For BURNPUR CEMENT LIMITED
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 Company Secretary

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For Burnpur Cement Limited

[Signature]
 Indrajeet Kumar Tiwary
 Wholtime Director



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Date, to record the Equity Shares of Rs. 10/- each of the Company, either in physical form or in a dematerialized form, provided however, in case of the latter, the said notice shall contain the details of the relevant depository account. In the event that such notice has not been received by the Company in respect of any equity shareholder, the Equity Shares of Rs. 10/- each of the Company shall be issued to such shareholders in physical form.

- g. Those Equity shareholders, who continue to hold their equity shares in physical form as on the record date shall be issued fresh share certificates consequent upon the reduction of capital. Their original share certificates shall be deemed to be Cancelled and non-useable and not tradable from and after the record date. The new share certificates of Company issued pursuant to this Scheme shall be delivered to such equity shareholders who hold their equity shares in physical form, irrespective of whether such equity shareholders surrender their old share certificates or not.
- h. The present Scheme is proposed for reduction of capital of the Company in terms of Section 66 of the Companies Act, 2013, the Companies Act, 2013 read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 and other applicable provisions, if any. The Scheme does not envisage transfer or vesting of any of the properties and/or liabilities of the Company to any person or entity. The Scheme also does not involve any conveyance or transfer of any property of the Company.

2.2 Compliance

- a. The consent of the members of the Company to this Scheme shall be taken through a special resolution under the provisions of the Section 66 of the Companies Act, 2013 and rules made thereunder.
- b. The Scheme, if sanctioned, shall be fully in compliance with the Securities and Exchange Board of India Act ("SEBI") Act and the Rules and Regulations made and the Circulars issued thereunder.

2.3 Accounting treatment

Upon the Scheme becoming effective, Reduction of Capital of the Company will be accounted for in accordance with the applicable provisions of the Companies Act, 2013, Accounting Standards prescribed under section 133 of the Companies Act, 2013, and Generally Accepted

For BURNPUR CEMENT LIMITED

Company Secretary

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For Burnpur Cement Limited

Indrajeet Kumar Tiwary
Wholetime Director



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Accounting Principles in India (Indian GAAP), as the case may be. Following are the salient features of the accounting treatment to be given:

- a. Upon reduction of Capital, the total issued and paid up Equity Share Capital of the Company shall be reduced from Rs. 86,12,43,630 divided into 8,61,24,363 Equity Shares of Rs. 10 each, fully paid-up, to Rs. 17,22,48,730 divided into 1,72,24,873 Equity Shares of Rs. 10 each, fully paid-up.
 - b. The debit balance of Profit & Loss Account of the Company will be written off to the extent of amount of the aforesaid reduction of share capital. Any amount left after writing off the debit balance of Profit & Loss Account will be credited to the Capital Reserve Account in the books of the Company.
- 2.4 The form of minutes proposed to be registered under section 66(5) of the Companies Act, 2013 is as follows:

"The paid-up equity share capital of Burnpur Cement Ltd is henceforth Rs. 17,22,48,730 (Rupees seventeen crore twenty-two lakhs forty-eight thousand seven hundred and thirty) divided into 1,72,24,873 (one crore seventy two lakhs, twenty four thousand eight hundred and seventy three) Equity Shares of Rs. 10/- (Rupees ten only) each".



For BURNPUR CEMENT LIMITED

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Company Secretary

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For Burnpur Cement Limited

Shwamy
Indrajeet Kumar Tiwary
Wholtime Director



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PART 3

General Clause and Terms & Conditions

3.1 Conduct of business

Nothing contained in the Scheme shall affect the conduct of the business of the Company and for any deeds, bonds, contracts, agreements and any other instruments to which the Company is a Party and/ or any legal or other proceedings by or against the Company.

3.2 Impact of the Scheme on Employees/ Workers

The Scheme shall not have any adverse impact on the employees/workers of the Company and they would, in fact be generally benefited as Scheme would help in improving the financial position of the Company.

3.3 Impact of the Scheme on creditors/ lenders/ financial institutions

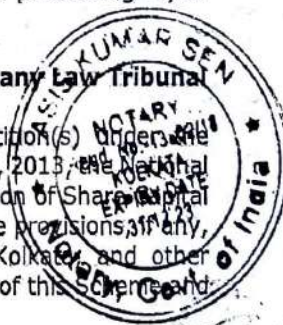
The proposed Reduction of Capital would not involve either the diminution of any liability in respect of un-paid share capital or the payment to any shareholder of any paid-up share capital. Hence, no creditor of the Company will be adversely affected by the proposed reduction of Capital, rather the proposed Reduction of Capital would help in improving the financial position of the Company.

3.4 Legal Proceedings

The Scheme would not affect any legal or other proceedings by or against the Company.

3.5 Application to the Hon'ble National Company Law Tribunal

The Company shall make application(s)/petition(s) under the provisions of sections 66 of the Companies Act, 2013, the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 and other applicable provisions, if any, to the Hon'ble Company Law Tribunal at Kolkata, and other competent authorities, if any, for sanctioning of this Scheme and other connected matters.



For BURNPUR CEMENT LIMITED
[Signature]
 Company Secretary

For Burnpur Cement Limited
[Signature]
 Indrajeet Kumar Tiwary
 Wholetime Director



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3.6 Modifications/Amendments to the Scheme

The Company through its Board of Directors may make or assent, from time to time, on behalf of all persons concerned, to any modifications or amendments to this Scheme or to any conditions or limitations which the Court(s) and/or any authorities under the law may deem fit to approve of or impose and to resolve all doubts or difficulties that may arise for carrying out this Scheme and to do and execute all acts, deeds, matters and things necessary for carrying the Scheme into effect.

In order to give effect to this Scheme or to any modifications or amendments thereof, the Board of Directors of the Company may give and are authorised to give all such directions as may be necessary including directions for settling any question, doubt or difficulty that may arise.

The Company shall be at liberty to withdraw from this Scheme in case any condition, alteration or modification, imposed or suggested by the Court(s) or any other competent authority, is not acceptable to them; or as may otherwise be deemed fit or proper by the Company.

3.7 Miscellaneous

a. Notwithstanding the reduction of Capital of the Company, the listing benefit of the Company on all the Stock exchanges where the existing equity shares of the Company are listed, shall continue.

b. Notwithstanding the reduction of Capital of the Company in pursuance of the Scheme, the Company shall not be required to add the word "And Reduced" to its name as the last words thereof.

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For BURNPUR CEMENT LIMITED
[Signature]
 Company Secretary

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 JR / DE / AR / Court Officer
 National Company Law Tribunal
 Kolkata Bench
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For Burnpur Cement Limited
[Signature]
 Indrajeet Kumar Tiwary
 Wholetime Director



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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, KOLKATA

(ORIGINAL JURISDICTION)

COMPANY APPLICATION NO. OF 2020

IN THE MATTER OF THE COMPANIES ACT, 2013 (18 OF 2013)

SECTIONS 66

AND

IN THE MATTER OF

REDUCTION OF SHARE CAPITAL OF BURNPUR CEMENT LTD

AND

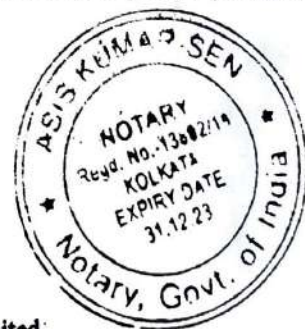
IN THE MATTER OF

BURNPUR CEMENT LTD

APPLICANT COMPANY

FORM OF MINUTE

"The paid-up equity share capital of Burnpur Cement Ltd is henceforth Rs. 17,22,48,730 (Rupees seventeen crore twenty-two lakhs forty-eight thousand seven hundred and thirty) divided into 1,72,24,873 (one crore seventy two lakhs, twenty four thousand eight hundred and seventy three) Equity Shares of Rs. 10/- (Rupees ten only) each".



For Burnpur Cement Limited

Indrajeet Kumar Tiwary
Indrajeet Kumar Tiwary
Wholetime Director

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National Company Law Tribunal
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