

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH [SPECIAL]
COURT NO. II
KOLKATA**

Company Application (CAA) NO. 168/KB/2022

An Application under Sections 230 read with Section 232 of the Companies Act, 2013 read with others provisions under Companies (Compromises, Arrangement and Amalgamations) Rules, 2016.

IN THE MATTER OF:

A Scheme of Arrangement of (First Motion):

CENTURY PLYBOARDS (INDIA) LIMITED, a company incorporated under Companies Act, 1956, having CIN: L20101WB1982PLC034435 and having its registered office at P-15/1, Taratala Road, Kolkata – 700088, West Bengal.

...Applicant No. I/ Transferor Company/ CPIL

AND

CENTURY INFRA LIMITED, a company incorporated under the Companies Act, 2013, having CIN: U63030WB2021PLC250586 and having its registered office at P-15/1, Taratala Road, Kolkata – 700088, West Bengal.

...Applicant No. II/ Transferee Company/ CIL

IN THE MATTER OF:

1. CENTURY PLYBOARDS (INDIA) LIMITED
2. CENTURY INFRA LIMITED

..... Applicant Companies

Date of Hearing: December 30, 2022

Date of Pronouncing the Order: February 10, 2023

CORAM:

Rohit Kapoor, Hon'ble Member (Judicial)

Balraj Joshi, Hon'ble Member (Technical)

Ld. Counsels Appeared on Record Physically/ through Hybrid Mode:

Sri. Vikram Wadehra, Advocate

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ORDER

Per: Rohit Kapoor, Member (Judicial)

1. This Court is convened through hybrid mode.
2. The instant application has been filed by the Applicant Companies in the first stage of the proceedings under Section 230(1) read with 232(1) of the Companies Act, 2013 (“Act”) for orders and directions with regard to meetings of shareholders and creditors in connection with the **Scheme of Arrangement of Century Plyboards (India) Limited**, the Applicant No. I [hereinafter referred to as the “Transferor Company”/ “CPIL”], with **Century Infra Limited**, the Applicant No. II [hereinafter referred to as the “Transferee Company”/ “CIL”] whereby and whereunder the Container Freight Station Undertaking of the Transferor Company is to be transferred and vested in the Transferee Company as a going concern on a Slump Sale basis with effect from the **Appointed Date i.e., 1st April 2022**, in the manner and on terms and conditions stated in the said Scheme of Arrangement (“Scheme”). A Copy of the said Scheme is annexed to the Company petition being **Annexure – E**, at Page no. 229-281.

SN	NAME OF THE COMPANY	COMPANY AS PER THE SCHEME	PARTY TYPE	RELEVANT ANNEXURE, PAGE NO. AND VOLUME OF THE COMPANY PETITION
Appointment Date: April 01, 2021				
1.	Century Plyboards (India) Limited	Transferor Company/ CPIL	Applicant I	Annexure – E, Volume II, Page No 229-281.
2.	Century Infra Limited	Transferee Company/ CIL	Applicant II	

3. It is submitted by the Ld. Counsel appearing for the Applicants that the equity shares of the Applicant No. I Company are listed on the BSE Limited (“BSE”) and the National Stock Exchange of India Limited (“NSE”) stock exchanges.

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Copies of the observation letters containing the 'No Objection' from BSE Limited and NSE Limited are enclosed as **Annexure 'I' at page nos. 308 to 315.**

4. Further, the Applicant Companies have the following classes of creditors as on 30.09.2022 and shareholders as on 30.09.2022: -

SN.	PARTICULARS	AS ON 30.09.2022		
		EQUITY SHAREHOLDERS	SECURED CREDITORS	UNSECURED CREDITORS
1.	TRANSFEROR COMPANY/APPLICANT I	61,805	7	2039
2.	TRANSFEE COMPANY /APPLICANT II	7	NIL	NIL

5. Ld. Counsel for the Applicant Companies submits that **each and every shareholder of the Transferee Company** has considered the said Scheme and has given their **consent in the form of affidavits** approving the Scheme and provided their no-objection to dispense with convening of the meeting of the shareholders of the Transferee Company. The list of shareholders duly approved by an Independent Chartered Accountant forms a part of the application at **Annexure 'K' at page nos. 320.** The same form a part of the application at **Annexure 'L' at page nos. 322 to 343.** The Transferee Company has **NIL Secured and Unsecured Creditors.** The Certificate of the Independent Chartered Accountant forms a part of the application at **Annexure 'O' at page no. 447.** The **Transferor Company** has **7 Secured Creditors** wherefrom **99.82%** of the secured creditors in value of the Transferor Company have given their written **consent by way of affidavit** for dispensation of the meeting of the secured creditors of the Transferor Company. The same form a part of the application at **Annexure 'N' at page no. 400 to 446.** The Transferor Company has 2039 Unsecured Creditors. The list of Secured and Unsecured Creditors of the Transferor Company duly certified by an Independent Chartered Accountant is enclosed at **Annexure 'M' at page no. 344 to 399.**
6. Directions are sought accordingly for (a) dispensing with meetings of the shareholders of the Transferee company who have already given their consent to

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the Scheme and the Secured Creditors of the Transferor Company since 99.82% of the secured creditor(s) in value have given their written consent by way of an Affidavit for dispensation of the meeting of the secured Creditors of the Transferor Company. (b) convening of the meetings of the equity shareholders and unsecured creditors of the Transferor Company to consider the Scheme under Section 230 (1) read with Section 232 (1) of the Act.

7. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Applicants, we allow the instant application and make the following **orders**: -

A. MEETING DISPENSED:

- i.** Meeting of the shareholders of the Transferee Company, are hereby dispensed with, in view of the **consents** by way of affidavit given by all the shareholders of the Transferee Company. The list of shareholders duly approved by an Independent Chartered Accountant of the Transferor Company forms a part of the application at **Annexure 'K' at page nos. 320 to 321.**
- ii.** In view of the fact that there are **NIL** secured creditors and **NIL** unsecured creditors of the Transferee Company, the question of holding meeting of the secured or unsecured creditors of the Transferee Company does not arise.
- iii.** Meeting of the **Secured Creditors** of the **Transferor Company** is dispensed with in view of the fact that **99.82%** of the secured creditor(s) in value of the Transferor Company have given their written consent by way of affidavit for dispensation of the meeting.

B. MEETING DIRECTED:

- i.** There shall be a Meeting of the **Equity Shareholders** of the **Transferor Company** for the purpose of considering and if thought

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fit, approving with or without modification(s), the scheme of the Applicants.

- ii. There shall be a Meeting of the **Unsecured Creditors** of the **Transferor Company** for the purpose of considering and if thought fit, approving with or without modification(s), the scheme of the Applicants.

C. **MODE OF MEETINGS:** Considering the large number of participants and also due to pandemic threats, the meetings, as above, shall be convened and held virtually via video conferencing or other audio-visual mode (“**Virtual Mode**”). Subject to the directions and matters dealt with herein, such meetings shall be held virtually in accordance with the framework provided therefor in the Ministry of Corporate Affairs General Circular No.14/2020 dated 8th April, 2020, as clarified / extended from time to time, including by General Circulars bearing No.17/2020 dated 13 April 2020, No.22/2020 dated 15 June 2020, No.33/2020 dated 28 September 2020, No.39/2020 dated 31 December 2020, No. 10/2021 dated 23 June 2021, No. 20/2021 dated 8 December 2021, and No. 3/2022 dated 5 May 2022 and No. 11/2022 dated 28 December 2022 (“Virtual Meeting Circulars”).

D. **ADVERTISEMENT:** At least 30 (Thirty) clear days before the meeting(s) to be held as aforesaid an advertisement of the notice of meeting(s) be published once each in “**BUSINESS STANDARD**” (All India Edition) in **English** and “**AAJKAAL**” in **Bengali** as per Rule 7 of the Companies (Compromise, Arrangements and Amalgamations) Rules 2016.

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- E. INDIVIDUAL NOTICES:** At least 30 (thirty) clear days before the date of the meeting(s) to be held, as aforesaid, notices convening the said meeting(s), along with all documents required to be sent with the same, including a copy of the said Scheme, statement prescribed under the provisions of the Act disclosing necessary details and the prescribed form of proxy, shall be sent to each of the said shareholders and unsecured creditors of the Transferor Company as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, by electronic mail at their respective or last known email addresses as per the records of the Transferor Company, in terms of circular dated 28 December 2022 read together with circulars dated 8th April 2020, 13th April 2020, 15th June 2020, 28 September 2020, 31st December 2020, 23rd June 2021, 8th December 2021 and 5 May 2022, issued by the Ministry of Corporate Affairs, as applicable to the manner in which notices are required to be sent. The Transferor Company shall ensure that the Equity Shareholders and Unsecured Creditors of the Transferor Company whose e-mail address are not available with the Transferor Company or who have not received notice convening said meetings, can access/download the said notices from the websites of the Transferor Company viz. www.centuryply.com and on the websites of the Stock Exchanges, i.e., BSE Limited and National Stock Exchange of India Limited at www.bseindia.com and www.nseindia.com, respectively. The said notices will mention the procedure to register and vote on the resolutions proposed under respective notices.
- F. CHAIRPERSON OF THE MEETING:** **Mr. Avishek Guha, Advocate (Mobile No: +91 9830956258)** is appointed as the Chairperson of the meetings to be held, as aforesaid. The Chairperson

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shall be paid a consolidated sum of **Rs. 70,000** /- for conducting the aforesaid meeting(s) as Chairperson.

- G. SCRUTINIZER: Mr. Rohit Kesri PCS (Mobile No.: +91 9681670966)** is appointed as the Scrutinizer of the meetings to be held, as aforesaid. The Scrutinizer shall be paid a consolidated sum of **Rs. 60,000/-**.
- H. QUORUM AND ATTENDANCE:** The quorum for the said meeting of equity shareholders of Transferor Company entitled to attend the same shall be determined in accordance with Section 103 of the Companies Act, 2013. The quorum for the meeting of unsecured creditors of the Transferor Company shall be 15 (fifteen) unsecured creditors. For the meeting(s) to be held in the Virtual Mode, attendance of such persons in Virtual Mode shall be counted for the purpose of quorum. Attendance at such meeting(s) shall be recorded in the minutes of the meeting(s) instead of taking physical attendance slips. In case the quorum of any meeting is not present within half an hour from the time appointed for the meeting, the Chairperson may adjourn such meeting to any date/time and take a decision on the quorum for the adjourned meeting.
- I. MODE OF VOTING:** Voting in the meetings held in Virtual Mode shall be by e-voting only. Further, in case of meetings of the Equity Shareholders of the Transferor Company as also the meetings of Unsecured Creditors of the Transferor Company, facility for voting in person/ remote e-voting shall also be provided during the period from:

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SN	PARTICULARS	DATE	TIME
1.	Equity Shareholders of the Transferor Company	20/03/2023	10:00 AM to 2:00 PM
2.	Unsecured Creditors of the Transferor Company	20/03/2023	3:00 AM to 6:00 PM
The facility for remote e-voting shall be disabled at <u>01:45 PM</u> for Equity Shareholders of the Transferor Company and at <u>05:45 PM</u> for Unsecured Creditors of the Transferor Company on 20/03/2023 .			

- J. CUT-OFF DATE:** The cutoff date for determining the eligibility to vote and value of votes shall be **05/03/2023** for the meeting(s) of creditors. The value of the votes cast shall be reckoned and scrutinized with reference to the said dates.
- K. VOTING PROCEDURE:** Subject to the directions and matters dealt with herein, the procedure for voting by e-voting and conduct of voting, in so far as the same is prescribed by the Virtual Meeting Circulars and Companies (Management & Administration) Rules, 2014 (“the said Rules”), and the forms thereunder shall be followed with such variations as required in the circumstances and in relation to the resolution for approval of the Scheme.
- L.** Persons who are entitled and have an option to vote on the resolution put to a meeting by (a) voting in person or (b) remote e-voting at the meeting, as above, may opt to exercise their votes only in one of such modes. In case they cast their votes by both, voting in person and remote e-voting, then voting done through remote e-voting shall prevail and voting done by voting in person will be treated as invalid.

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Further, if they cast their votes by voting in person and/or remote e-voting, as aforesaid, they will not be entitled to vote again at the meeting. If they do so, the votes so cast by them shall be treated as invalid. It is clarified that such persons choosing to cast their votes by voting in person/ remote e-voting shall nevertheless be entitled to attend and participate in the discussions in such meeting but shall not be entitled to vote again at such meeting.

- M.** Authorized Representative & Board Resolutions: A person, including an Institutional / Body Corporate shareholder (i.e., shareholders other than individuals / HUF / NRI etc.), intending to send authorized representative to attend and vote by remote e-voting or by e-voting at the meeting held in Virtual Mode, a scanned copy of board resolution / authorization etc. authorizing its representative to attend the Meeting shall be sent by email to the Scrutinizer.
- N.** That the Chairperson appointed for the said meeting(s) or any person authorized by the Chairperson do issue and send the notices of the aforesaid meeting(s). Further, the Chairperson shall have all other powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 read with the other applicable rules and provisions in relation to conduct of the meeting(s), including for deciding procedural questions that may arise at the meeting or at any adjournment thereof, or any other matter relating to the meeting(s), including an amendment to the Scheme, if any proposed by any person(s).
- O.** Scrutinizer's Report/ Declaration of Results: The votes cast shall be Scrutinized by the Scrutinizer. Votes cast in all the modes shall be

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consolidated. The Scrutinizer shall prepare and submit the respective reports on the meeting(s) along with all papers relating to the voting to the Chairperson of the meeting(s) within 48 hours of the conclusion of the meeting(s). The Chairperson shall declare the results of the meetings after submission of the reports of the Scrutinizer. The declaration of results by the Chairperson shall be displayed on the Notice Board of the Transferor Company at its registered office and its head office as well as corporate office, if any, and shall also be posted on the website, if any, of the Transferor Company. Further, such declaration of results shall also be posted on the website of the Agency providing the facility for e-voting. In addition to the aforesaid, all other requirements with regard to publication and communication of Scrutinizer's report and Chairperson's declaration of results, as prescribed under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 should also be complied with.

- P.** The value of each shareholder and creditor shall be in accordance with the books and records of the Transferor Company and, where entries in the books are disputed, the chairperson shall determine the value for purposes of the said meeting(s).

- Q.** The resolution for approval of the Scheme of Amalgamation/Arrangement put to a meeting shall, if passed by a majority in number representing three-fourths in value of the respective shareholders / creditors casting their votes, as aforesaid, shall be deemed to have been duly passed on the date of such meeting under Section 230(1) read with Section 232(1) of the Companies Act, 2013.

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- R.** The Chairperson do report to this Tribunal the results of the said meeting(s) within four weeks from the date of the conclusion of the said meeting(s). Such report shall be in Form No. CAA4 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, verified by affidavit. The same shall also form a part of the connected company petition.
- 8.** Let the notice be served by the Applicant Companies as per the requirement of sub-section (5) of Section 230 of the Companies Act, 2013 along with a copy of the Scheme and statement disclosing necessary details upon: -
- i.** Central Government through Regional Director, (ER), MCA, Kolkata;
 - ii.** Registrar of Companies, Kolkata, West Bengal;
 - iii.** BSE Limited;
 - iv.** National Stock Exchange of India Limited;
 - v.** Security and Exchange Boards of India;
 - vi.** Concerned Income Tax Assessing Officer along with the Chief Commissioner of Income Tax with PAN Numbers of the Applicant Companies having jurisdiction over the Applicant Companies; and
 - vii.** Official Liquidator having jurisdiction over the Applicant Company.

These notices shall be sent by hand delivery through special messenger, by speed post and by email within two weeks from the date of receiving this order. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Advocates of the Applicant Company. If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme of Amalgamation. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies

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(Compromises, Arrangements and Amalgamations) Rules, 2016 in Form No. CAA 3 of the said Rules with necessary variations, incorporating the directions herein.

9. The Applicants to file an affidavit proving service of notices of meeting(s) and publication of advertisement and compliance of all directions contained herein at least a week before the meeting(s) to be held.
10. If consent affidavits/letters of the members and unsecured creditors annexed with the application are found to be false/dubious at any stage, then necessary actions for committing fraud under Section 447 and 448 of the Companies Act, 2013 shall be initiated against the Transferee and Transferor Company and all its directors for punishment under Section 449 of the Companies Act, 2013.
11. The application being **Company Application (CAA) No. 168/KB/2022** is allowed and **disposed** of accordingly.
12. Urgent certified copies of this Order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

This Order signed on the 10th Day of February, 2023

Bose R K [LRA]