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**(2011) 11 DEL CK 0062**

**In the Delhi High Court**

**Case No : Company Petition No. 539 of 2010**

M/s Ambuja Cement India Private Limited

APPELLANT

Vs

M/s Holcim (India) Private Limited

RESPONDENT

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**Date of Decision : 14-11-2011**

**Acts Referred:**

Companies (Court) Rules, 1959 — Rule 80  
Companies Act, 1956 — Section 391, 394

**Citation : (2011) 11 DEL CK 0062**

**Hon'ble Judges : P.K. Bhasin, J**

**Bench : Single Bench**

**Advocate :** Rakesh Khanna with Ms. Vanya Vida, Advocates, Mr. Rajiv Bahl, Advocate for OL Ms. Ruchi Kukreja, Deputy Registrar of Companies for Regional Director (Northern Region), for the Respondent

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## **Judgement**

P.K. Bhasin, J.—Through this petition under Sections 391 and 394 of the Companies Act, 1956 the two applicants-Companies, seek sanction of this Court for the Scheme of Amalgamation of M/s Ambuja Cement India Private Limited (hereinafter to be referred to as "the Transferor Company") with M/s. Holcim(India) Private Limited (hereinafter to be referred to as "the Transferee Company").

2. The Transferor Company was originally incorporated under the Companies Act, 1956 on 23rd April, 1999 with the Registrar of Companies, Maharashtra at Mumbai under the name and style of Cement Holdings Private Limited. The company changed its name to Ambuja Cement Holdings Private Limited after passing the necessary resolution to this effect and obtained the fresh Certificate of Incorporation on 11th October, 1999. The company again changed its name to Ambuja Cement Holdings Limited and obtained the fresh Certificate of Incorporation on 25th November, 1999. The company once again changed its name to Ambuja Cement India Limited and obtained the fresh Certificate of Incorporation on 19th January, 2000. The Company finally changed its name to Ambuja Cement India Private Limited and obtained the fresh Certificate of

Incorporation on 29th March, 2006. Thereafter, the Company shifted its registered office from the State of Maharashtra to Delhi pursuant to order dated 15.06.2009 passed by the Company Law Board, Mumbai Bench.

3. The Transferee Company was originally incorporated under the Companies Act, 1956 on 5th September, 2002 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Holdcem Cements Private Limited. The company changed its name to Holcim (India) Private Limited after passing the necessary resolution to this effect obtained the fresh Certificate of Incorporation on 20th October, 2005.

4. Prior to the filing of this second motion petition the applicants had approached this Court with the first motion petition, which came to be registered as CO.Application(M) No. 188/2010. That petition was entertained here since the registered offices of the Transferor Company as well as the Transferee Company are situated at Delhi. Vide order dated 19.11.2010 this Court had, after taking into consideration various aspects including the objects of both the Companies, their authorized share capital as well as the share exchange ratio proposed in the Scheme of Amalgamation and the fact that both the Companies belong to Holcim Group of Companies had dispensed with the holding of the meetings of the equity shareholders, preference shareholders and the unsecured creditors of the Transferor Company and the Transferee Company, there being no secured creditors of any of the Companies, allowed the prayer of the two Companies for dispensing with the requirement of conducting the statutory meetings of the equity shareholders (there are 2 equity shareholders each in both the companies), preference shareholders (there is 1 preference shareholder only in both the companies) and the unsecured creditors (their number being 4 in the case of transferor company and 2 in the case of transferee company) who had already given their no-objections to the proposed amalgamation of the two Companies.

5. Citation of this second motion petition was got published in two newspapers, namely, "Statesman"(English) and "Veer Arjun" (Hindi) in accordance with Rule 80 of the Companies(Court) Rules, 1959. Notices were also sent to the Regional Director (Northern Region) as well as the Official Liquidator. Mr. B. K. Bansal, the Regional Director, Northern Region, Ministry of Corporate Affairs filed his affidavit dated 13-04-2011 to the effect that the Central Government had no objection to the proposed amalgamation of the transferor Company with the transferee Company. Similarly the Official Liquidator Shri S.S.Gautam in his report dated 21.04.2011 informed this Court that the affairs of the transferor Company did not appear to have been conducted in a manner prejudicial to the interest of its members or the public.

6. Having regard to the averments made in the petition, the material placed on record, including the Scheme of Amalgamation, and the affidavits filed on behalf of the two Companies seeking sanction of this Court and the no objections given by the Official Liquidator as well as the Regional Director (Northern Region), this

Court is satisfied that the prayer made in the petition deserves to be allowed. There is no legal impediment to sanction the proposed scheme of amalgamation, which is annexed with the petition.

7. Consequently, sanction is hereby granted to the scheme of amalgamation of the transferor Company with the transferee Company under Sections 391 and 394 of the Companies Act, 1956. Certified copy of this order be filed with the Registrar of Companies within four weeks. Upon scheme becoming effective and from appointed date the Transferor Company shall stand dissolved without being wound up. The transferor Company shall deposit a sum of ` 30,000/- in the Official Liquidator"s common pool account within two weeks.