



ASM TECHNOLOGIES LIMITED

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CIN : L85110KA1992PLC013421 GST No. : 29AABCA4362P1Z9

28th October 2023

To,

BSE Limited,

Phiroze Jeejeebhoy Towers,

25th Floor, Dalal Street,

Mumbai - 400 001.

Script Code: 526433; Trading Symbol: ASMTEC

Dear Sirs/Madam,

Subject: Disclosure under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“Listing Regulations”),

Ref: Scheme of amalgamation and merger of ASM Digital Engineering Private Limited (formerly known as Semcon India Private Limited) (“Transferor Company”) with ASM Technologies Limited (“Transferee Company”) and their respective shareholders (“Scheme”) under Sections 230-232 read other relevant provisions of the Companies Act, 2013 and all the applicable provisions and rules made thereunder.

In continuation to the disclosure dated 09th November 2022 , we are pleased to inform that the Hon’ble National Company Law Tribunal (“NCLT”), Special Bench, Bengaluru (“NCLT”) vide its order dated 27th July 2023, (uploaded on the website of Hon’ble NCLT on 27th October 2023) disposed the first motion application and dispensed with the meeting of shareholders of both the Transferor and Transferee Company, Secured and unsecured creditors of Transferee company. Further, directed to obtain the consent of secured creditor of the Transferor Company and directed meeting to be held of the unsecured creditors of the Transferor Company on 21st December 2023 at 10:30 AM through Video Conferencing or Other Audio Visual Means (OAVM) as per the guidelines issued by MCA or physical meeting at the registered office of the Transferor Company and subject to the approval, gave the liberty to the applicant companies to file second motion petition. The said order is accessible on the Hon'ble NCLT's website at

https://efiling.nclt.gov.in/nclt/public/details.php?filing_no=MjkwMzExMTAwMjg0MjAyMy9iZW5nYWx1cnU= .

The details such as manner of (i) casting vote and (ii) attending the meeting through VC / OAVM will be set out in the Notice of the aforesaid meeting.

Unsecured creditors whose name appears in the list of unsecured creditors of the Transferor Company as submitted to the Hon'ble NCLT with the application (First motion) only shall be entitled to exercise his/her/its voting rights on the resolution proposed in the notice and attend the meetings of unsecured creditors. Voting rights of a unsecured creditor shall be in proportion to the outstanding amount due by the Company.

The company will ensure the timely and accurate dissemination of information in accordance with the relevant regulatory requirements as they become due.

You are requested to take the same on your record.

For ASM Technologies Limited



Vanishree Kulkarni
Company Secretary and Compliance officer
Membership Number: A48829

Encl: Order

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU
(Through web-based video conferencing platform)

C.A. (CAA)No.12/BB/2023

U/ss. 230 to 232 & other applicable
Provisions of Companies Act, 2013
R/w. Companies (CAA) Rules, 2016

IN THE MATTER OF SCHEME:

1. M/s. ASM Digital Engineering Private Limited

(formerly known as Semcom India Private Limited)

Rep. by its Authorised Representative

Ms. Vanishree Anandmurthy Kulkarni

R/o. at RMZ NXT, Campus IB, IST Floor,
Mahadevapura Unit 102,
Sonnenahalli Village, K R Puram Hobli,
Bengaluru – 560 066

- Applicant Company No.1/
Transferor Company

2. M/s. ASM Technologies Limited

Rep. by its Authorised Representative

Ms. Vanishree Anandmurthy Kulkarni

80/2, Lusanne Court, Richmond Road,
Bengaluru – 560 025

- Applicant Company No.2/
Transferee Company

Order delivered on: 27th July, 2023

CORAM: 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)
2. Hon'ble Ms. Anu Jagmohan Singh, Member (Technical)

PRESENT:

For the Applicant Companies : Shri Pramod S.M, PCS

ORDER

Per: T. Krishnavalli, Member (Judicial)

1. The present first motion Application has been filed on 16.02.2023 by the Applicant Companies, **M/s. ASM Digital Engineering Private Limited**, Transferor Company (described in short as "Applicant No.1) and **M/s. ASM Technologies Limited**, Transferee Company (described in short as "Applicant No.2") U/ss. 230 to 232 & other applicable Provisions of



Companies Act, 2013 R/w. Companies (CAA) Rules, 2016 *inter alia*, seeking for dispensation with meeting of the Shareholders, Unsecured Creditors and Secured Creditors of the Applicant Companies. The Scheme of Amalgamation and Merger is placed on record at Annexure-F of the Application.

2. The Transferor Company, namely, **ASM Digital Engineering Private Limited**, is a Private Limited Company was incorporated under the Companies Act, 1956 on 17.03.2006 under the name and style of “Caran Designs India Private Limited”. Subsequently, the name of the Transferor Company was changed to Semcon India Private Limited pursuant to a certificate of name change dated March 30, 2009, issued by the Registrar of Companies, National Capital of Territory of Delhi and Haryana. Thereafter, the name of the Transferor Company was changed to ASM Digital Engineering Private Limited bearing CIN: U72900KA2006PTC049744, pursuant to a certificate of name change dated 31.12.2020, issued by the Registrar of Companies, Bengaluru. The Transferor Company is presently having its registered office at RMZ Nxt, Campus 1B, 1st Floor, Mahadevapura Unit 102, Sonnenahalli Village, K R Puram, Bengaluru. The copy of Articles of Association and Memorandum of Association is found attached as Annexure-A of the Application. As per the Memorandum of Association, the main objects of Company are as follows:

“(1) to carry on in all its branches the business of designing, customizing, engineering, developing, prototyping of spares, processes, ideas including inception of projects and products, solutions, software, hardware used in the Aeronautic, Automotive, Ergonomics, electronics, Life Sciences, packaging, industrial and aviation industry and industries engaged in manufacturing and processing of goods and services of every kind and description and to carry on the business of prototypes of models and show-cars, rapid prototyping and tools and prototypes and IT enabled services etc”.

3. The Authorized Share Capital of the Transferor Company as on 09.11.2022 is as follows:

Authorized Share Capital	Amount (Rs.)
40,00,000 Equity Shares of Rs.10/- each	4,00,00,000
Issued, Subscribed and Paid-up Share Capital	
39,99,971 Equity Shares of Rs.10/- each	3,99,99,710

(100% held by Transferee Company and its nominees)	
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4. The Transferee Company, namely, **ASM Technologies Limited** was incorporated as Public Limited Company on 10.08.1992, under the name and style of Advanced Synergic Microsystems Limited, and subsequently the name of the Company was changed to ASM Technologies Limited pursuant to a Certificate of name change dated 09.04.2001 issued by the Registrar of Companies, Bengaluru with CIN: L85110KA1992PLC013421. The Transferee Company with over three decades of experience, ASM has been supporting customers in the areas of Engineering Services, Product R&D and supporting customers in the areas of Engineering Services, Product R & D and Manufacturing Engineering. ASM has multiple delivery locations in India with a global presence in USA, Singapore, UK, Canada, Japan, Thailand, China and Mexico. Its registered office is situated at 80/2, Lusanne Court, Richmond Road, Bengaluru. The copy of Articles of Association and Memorandum of Association is found attached as Annexure-C of the Application. As per the Memorandum of Association, the main objects of Transferee Company are as follows:

“to design, develop, engineer, manufacture, assemble, test, sell, export, import, alter, repair, transfer license, lease, hire, carry on Research and develop products and services in the areas engineering products across various industry verticals, network related products encompassing Wi-Fi, Security, WLAN, LAN, Cloud Applications, Software and Hardware Development, Testing and Validation and in the areas of Digital Transformation encompassing Artificial Intelligence, Machine Learning etc.”

5. The Authorized Share Capital of the Transferee Company as on 09.11.2022 is as follows:

Authorized Share Capital	Amount (Rs.)
1,50,00,000 Equity Shares of Rs.10/- each	15,00,00,000
Issued, Subscribed	
1,10,00,000 Shares of Rs.10/- each	11,00,00,000
Paid-up Capital	
1,00,00,000 shares if Rs.10/- each (full paid-up) 10,00,000 shares of Rs.10/- each (partly paid-up Rs.3/- each	10,30,00,000

6. The Board of Directors of the Transferor Company and Transferee Company have approved and adopted the Scheme of Amalgamation for Merger of the



business of ASM Digital Engineering Private Limited (Former known as Semcon India Private Limited ["hereinafter referred to as the "Transferor Company"]) with its holding Company viz., ASM Technologies Limited ["hereinafter referred to as the "Transferee Company"], at their respective meetings held on 09.11.2022. The Appointed Date fixed under the Scheme is 01.04.2023. The extract of the Board Resolutions, as applicable, of the Transferor Company and extract of the Board Resolutions of the Transferee Company are annexed as Annexure-E & E1 series of the Application.

7. It is stated that the Transferor Company is a wholly owned subsidiary of the Transferee Company. The entire share capital of the Transferor Company is held by the Transferee Company. Hence, upon the Scheme becoming effective, no shares of the Transferee Company shall be allotted in lieu or exchange of the shares of the Transferor Company. Upon the Scheme becoming effective, the entire share capital of the Transferor Company shall be cancelled and extinguished.
8. The instant Application has been filed with prayer for dispensation with the holding of meetings of Equity Shareholders, Unsecured Creditors and Secured Creditors of the Applicant Companies and the same is read as under:

"(a) pass dispensation orders for holding the meeting of the members of the Transferor Company as per the consent affidavit received from the Transferee Company who through its nominee is the sole shareholder of the Transferor Company;

(b) pass dispensation orders for holding the meeting of the members of the Transferee Company as held by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi, and this Hon'ble National Company Law tribunal bench;

- i. *Company Appeal (AT)No.19 of 2021 in the matter of Ambuja Cements Limited. (Arising out of order dated 10.12.2020 passed by National Company Law Tribunal, Ahmedabad Bench in C.A(CAA)No.50 of 2020).*
- ii. *C.A. (CAA) No.38/BB/2021 Yuflow Engineering Private Limited (Transferor Company) and Yuke India Limited (Transferee Company), Bengaluru Bench.*

(c) Pass dispensation orders for holding the meeting of the unsecured creditors of the Transferor Company as held by the Hon'ble National Company Law Tribunal, Mumbai Bench IV in C.A (CAA)/212/MB-IV/2021 Booker Satnam Wholesale Limited and Booker India Limited.

(d) pass dispensation orders for holding the meeting of the unsecured Creditors of the Transferee Company as held by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi, and Hon'ble National Company Law Tribunal and the Mumbai Bench IV in:

- i. Company Appeal (AT) No.19 of 2021 in the matter of Ambuja Cements Limited. (Arising out of order dated 10th December, 2020 passed by National Company Law Tribunal, Ahmedabad Bench in CA (CAA)No. 50 of 2020).
- ii. CA(CAA)No.38/BB/2021 Yuflow Engineering Private Limited (Transferor Company) and Yuke India Limited (Transferee Company), Bengaluru Bench
- iii. CA(CAA)No.212/MB-IV/2021 Booker Satnam Wholesale Limited and Booker India Limited.

(e) Pass dispensation orders for holding the meeting of the Secured Creditors of the Transferor and Transferee Companies as held in Company Appeal (AT) No.82 of 2021 in the matter of Lasa Supergenerics Limited Vs. Harishree Aromatics & Chemicals Private Limited passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi".

9. The Ld. Counsel for the Applicant Companies has also filed Memo regarding grounds for dispensation of the meetings of Applicant Companies, vide Diary No.3009 dated 08.06.2023. In this regard the Applicants rely on the following Judgements:

- 1) *Ambuja Cements Ltd., In re CA(AT) No.19 of 2021, Dated 6-4-2021 passed by Hon'ble NCLAT, New Delhi (Relevant Para Nos.15, 29 & 39);*
- 2) *CA(CAA)No.38/BB/2021 Yuflow Engineering Private Limited (Transferor Company) and Yuke India Limited (Transferee Company), passed by the Hon'ble NCLT, Bengaluru Bench (Ref. para nos.6 & 7);*
- 3) *CA.(CAA)No.212/MB-IV/2021 Booker Satnam Wholesale Limited and Booker India Limited. (Ref. para no.16 & 17);*
- 4) *CA (AT)No.82 of 2021 in the matter of Lasa Supergenerics Limited Vs. Harishree Aromatics & Chemicals Private Limited passed by the*

National Company Law Appellate Tribunal, Principal Bench, New Delhi". (Ref. para nos.8 & 10).

- 10.** The learned PCS for the Transferor Company has submitted that as per the Certificate dated 16.11.2022 of B.K.Ramadhyani & Co., LLP., Chartered Accountants, there are 02 [two] Equity Shareholders in the Transferor Company as on 30.09.2022 viz., Shri Rabindra Srikantan, Nominee of ASM Technologies Limited holding 1 [one] Equity Shares of Rs.10/- each and M/s. ASM Technologies Limited holding 39,99,970 Equity Shares of Rs.10/- each. Accordingly, Shri Rabindra Srikantan, Shareholder of ASM Technologies Limited has filed an Affidavit dated 13.02.2023 inter alia stating that he fully supports the said Scheme and has given a consent for the dispensation for the proposed Scheme of Amalgamation. Similarly, another Shareholder M/s. ASM Technologies Limited has also filed affidavit with similar declaration, for approval of the proposed Scheme. Further, the Applicants have also relied up on the judgments mentioned above at para 9.
- 11.** It is submitted that as per the Certificate dated 16.11.2022 of B.K.Ramadhyani & Co., LLP., Chartered Accountants, there are 17,272 Equity Shareholders in the Transferee Company as on 30.09.2022. Further, it is stated that Transferor Companies is a wholly owned Subsidiary of the Transferee Company. In this regard, the Transferee Company is seeking dispensation for the meeting of its Shareholders on the ground of wholly owned Subsidiary of the Transferee Company; and thereby rights of the shareholders would remain unaffected as no new shares were to be issued by the Transferee Company. For this, the Applicants have also relied upon the judgments mentioned above at para 9.
- 12.** B.K.Ramadhyani & Co., LLP, Chartered Accountants, have issued a Certificate dated 16.11.2022 by certifying that there are 1 [one] Secured Creditors as on 30.09.2022 in the Transferor Company. Further, they have issued another certificate dated 16.11.2022 which shows that there are 31 [Thirty One] Unsecured Creditors with an aggregate amount of Rs.4,44,38,992/- as on 30.09.2022 in the Transferor Company.



- 13.** B.K.Ramadhyan & Co., LLP, Chartered Accountants, have issued a Certificate dated 16.11.2022 by certifying that there are 2 (two) Secured Creditors as on 30.09.2022 in the Transferee Company. Further, they have issued another certificate dated 16.11.2022 which shows that there are 40 (Forty) Unsecured Creditors with an aggregate amount of Rs.3,39,05,073/- as on 30.09.2022 in the Transferee Company. Hence, as stated supra they are seeking dispensations of the Creditors meetings, in view of the aforesaid decisions.
- 14.** Further, Ld. PCS for the Petitioner Companies has filed various affidavits with regard to the no other sectoral regulator, no corporate debt restructuring and no investigations, litigations or proceedings pending against the Petitioner Companies under Sections 235 to 251 of the Companies Act, 1956 or Sections 206 to 229 of the Companies Act, 2013 or under any other provisions of Act or statutes. Copies of the same are placed at Annexures – U & V of this Application.
- 15.** It is submitted that the rationale for Scheme of Amalgamation of the Transferor Company with the Transferee Company is, *inter alia*, as follows:
- “(II.) Rationale for the Scheme:*
- *The Amalgamation will enable the Transferee Company to integrate its business operations and provide impetus to the operations of the Transferee Company. The consolidation of the activities by way of an amalgamation will provide seamless access to the assets (including intangible assets, licenses and intellectual properties) of the Transferor Company, which will lead to synergies of operations, reduction in overheads including administrative, managerial and other expenditure, operational rationalization, organizational efficiency an optimal utilization of resources.*
 - *The combined entity will have a bigger portfolio of services targeted at a wider array of customers, which will strengthen its competitive position in providing products and services to the customers. This will also enable the Transferee Company to address newer products and services to its customers and to the Transferor Company customers and enhance its marketing capabilities etc.”*
- 16.** The learned PCS for the Applicant Companies also submitted that the certificate of the statutory auditors of the Transferee Company has been filed certifying that the accounting treatment as specified in Clause 12 of Part-D of the proposed Scheme is in conformity with IND AS 103 ‘Business Combinations’ i.e. the applicable Accounting Standards specified under



Section 133 of the Companies Act, 2013 and other generally accepted accounting principles in India. The aforesaid certificates dated 09.11.2022 of B.K.Ramadhyan & Co., LLP, Chartered Accountants is attached as Annexures – N of the Application.

- 17.** Moreover, both the Transferor Company and the Transferee Company have filed Audited Financial Statements for the year ending as on 31.03.2022 as Annexure-B & D of the Application and unaudited Financial Statements as on 31.12.2022 at page nos.538 to 547 of the Application.
- 18.** Clause 5 of the Scheme stated that, upon the Scheme being effective, all staff, workmen and employees, if any, of the Transferor Company in service on the Effective Date shall be deemed to have become staff, workmen and employees of the Transferee Company with effect from the Appointed Date or the date of joining whichever is later, without any break or interruption in their service and on the basis of continuity of service for the purpose of provident fund or gratuity or otherwise, and the terms and conditions of their employment with the Transferee Company (i.e. cost-to-company basis, in monetary terms) shall not be less favourable than those applicable to them with reference to their employment with the Transferor Company on the Effective Date.
- 19.** We have heard the learned PCS appearing for the Applicant Companies and have perused the records and the supporting documents/papers filed along with the “Scheme” contemplated between the Applicant Companies with the assistance of learned PCS for the Applicant Companies.
- 20.** The Ld. PCS for the Applicant Companies has also stated there is no reorganisation of the share capital of the Transferee Company since 100% share capital of the Transferor Company is held by the Transferee Company and therefore there is no reorganisation in either its shareholding or its debt position; therefore there will be no new shares issued by the Transferee Company to the shareholders of the Transferor Company as the sole shareholder of the Transferor Company is the Transferee Company and its nominee. Further, there is no compromise or arrangement with the shareholders or creditors and no sacrifice of any amounts due to the



creditors. Hence, the Scheme would not prejudicially affect the creditors or shareholders of the Transferor and Transferee Company. Therefore, the PCS prayed to dispense with the meetings of the Shareholders, Secured and Unsecured Creditors of the Transferor and Transferee Companies. In this regard, they have also relied on the judgment passed by the *Hon'ble NCLAT in Company Appeal (AT) No.19 of 2021 in the matter of 'Ambuja Cements Limited' inter alia* had held that:

"In a scheme of amalgamation of a wholly owned subsidiary with its parent Company, the meetings of equity shareholders, secured and unsecured creditors of the Transferee Company may be dispensed with."

They have also relied on order passed by the NCLT, Bengaluru Bench in *C.A. (CAA)No.38/BB/2021 in the matter of Yuflow Engineering Private Limited (Transferor Company) and Yuke India Limited (Transferee Company), Bengaluru Bench*, in which it was observed that:

"we are convinced with the reasons, case laws submitted by the Applicant Companies and since the Transferee Company hold 100% of beneficial interest in the Transferor Company, therefore we are inclined to dispense with the meeting of the Equity Shareholders, Secured and/or Unsecured Creditor of the Applicant No.2/Transferee Company and dispense with the meeting of Equity Shareholders of Applicant No.1/Transferor Company".

Further, the Transferor Company does not proposed to hold the meeting of the Unsecured Creditors as held by the Hon'ble National Company Law Tribunal, Mumbai Bench IV in the case of *Booker Satnam Wholesale Limited and Booker India Limited in C.A(CAA)No. 212/MB-IV/2021*.

Accordingly, the Transferor and Transferee Company do not propose to hold the meeting of the Secured Creditors as there is no compromise or arrangement with the Secured Creditors, and the Scheme would not prejudicially affect the Secured Creditors and there will be no sacrifice of any amount due to the Secured Creditors as held in the *Company Appeal(AT)No.82 of 2021 in the matter of Lasa Supergenerics Limited V/s. Harishree Aromatics & Chemicals Private Limited* passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi.



21. It is noticed from the judgments of Hon'ble NCLAT, New Delhi, cited by the Applicant Companies in the matters of *M/s. Ambuja Cements Ltd., (supra)* and *M/s. Lasa Supergenerics Limited (supra)*, that when it was a case of amalgamation of a wholly owned subsidiary (the Transferor Company) with the parent Company (being the Transferee Company), the meetings of Secured and Unsecured Creditors of the Transferee Company were dispensed.

22. In view of the aforesaid discussion, the following directions are issued::

- i Convening and holding of the meetings of the Equity Shareholders of the Applicant Companies are hereby dispensed; in view of the consent affidavit given by the Shareholders of the Transferor Company; and the decisions relied upon in respect of the Transferee Company.
- ii Considering the aforesaid decisions, convening and holding of the meeting of the Secured Creditors of the Transferee Company is hereby dispensed with; subject to individual notices be sent to the Secured Creditors as required under Section 230(3) of the Companies Act, 2013 by Registered Post-AD/Courier/Hand Delivery and through E-mail, with a direction that they may submit their representations, if any, to this Tribunal within 30 days from the date of receipt of copy of the notice; and the proof of service of such notice be filed in this Tribunal by way of an affidavit.
- iii Considering the aforesaid decisions, convening and holding of the meeting of the Unsecured Creditors of the Transferee Company is hereby dispensed with; subject to individual notices be sent to the Unsecured Creditors having balance of Rs.1,00,000/- and above as required under Section 230(3) of the Companies Act, 2013 by Registered Post-AD/ Courier/ Hand Delivery and through E-mail; with a direction that they may submit their representations, if any, to this Tribunal within 30 days from the date of receipt of copy of the notice; and
- iv The meeting of the one Secured Creditor of the Transferor Company is directed to be convened on **21.12.2023** at **10:00 AM** through Video Conferencing or Other Audio Visual Means (OAVM) as per