(Combination Registration No. C-2014/09/211)

03.11.2014

Notice u/s 6 (2) of the Competition Act, 2002 given by:

- **Shree Cement Limited**

Order under Section 31(1) of the Competition Act, 2002

1. On 22nd September 2014, the Competition Commission of India (hereinafter referred to as the **"Commission"**) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 ("Act") filed by Shree Cements Limited (**"SCL" or "Acquirer"**). The said notice was given to the Commission pursuant to execution of the Business Transfer Agreement (**"BTA"**) between SCL and Jaiprakash Associates Limited (**"JAL" or "Target"**) on 19th September 2014.

2. The proposed combination involves transfer of a 1.5 million tonnes per annum (MTPA) capacity cement grinding unit at Panipat in Haryana (**"CGU"**) owned by JAL to SCL on a going concern basis by way of a slump sale.

3. In terms of Regulation 14 of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as "**Combination Regulations**"), vide letter dated 26th September 2014, the parties to the combination were required to provide information/document latest by 7th October 2014. The parties filed their reply on 10th October 2014 after seeking extension of three days.

4. SCL is a public listed cement manufacturing company. It currently has a cement production capacity of around 17.5 MTPA (on an all India basis) through its cement plants located at Beawar, Ras, Khushkhera, Jobner and Suratgarh in Rajasthan, Roorkee in Uttaranchal and Aurangabad in Bihar. SCL manufactures and sells Ordinary Portland Cement (**"OPC"**) and Portland Pozzolana Cement (**"PPC"**), which are both different categories of grey cement, under three brand names, namely, Shree Ultra, Bangur and Rockstrong.

5. JAL is a diversified public listed flagship company of Jaypee Group. JAL on its own and through its various subsidiaries, is engaged, inter alia, in manufacturing and marketing of different varieties of grey cement in various states across India. It currently operates cement plants located in the states of Uttar Pradesh, Haryana, Himachal Pradesh, Uttrakhand etc., with an aggregate capacity of 28.75 MTPA. The group produces OPC, PPC and Portland Blast Furnace Slag Cement (**"PBFSC"**) under the brand name "Jaypee Cement".

6. There are two varieties of cement, i.e., grey and white cement. Within the grey cement, there are various types, including OPC, PPC, and PBFSC etc. As stated in the notice, both SCL and JAL do not manufacture white cement. The Commission in its earlier decision has noted that different varieties of grey cement are considered to be largely interchangeable whereas the white cement constitutes a different market. Therefore, the relevant product market in the proposed combination is defined as the market for grey cement.

7. Cement is a homogenous product with a low shelf life as it tends to absorb moisture and therefore cannot be transported over the long distances. Further, as the transportation of cement involves significant costs for the companies, its consumption is centred around the production clusters, which in turn are centred around the sources of limestone. Therefore, the delineation of relevant geographic market assumes significance in combination cases involving cement as a product. The delineation of relevant geographic market in such cases requires identifying an area in which various firms may exercise competitive constraints over each other.

8. As stated by the parties to the combination, the CGU's sales are directed towards the states of Haryana, Delhi, Punjab and Rajasthan, the relevant geographic market for the proposed transaction based on the catchment area analysis should be the area comprising the states of Haryana, Delhi, Punjab and Rajasthan. According to the parties, the catchment area can be broadened further to include the states of Uttarakhand, Himachal Pradesh and Jammu & Kashmir as post-transaction, once the CGU has been acquired by SCL, the CGU will be used to serve these markets.

9. The Commission observed that a significant proportion of cement produced by CGU (more than 70 percent) is consumed in Haryana itself. Considering the proportion of cement produced in CGU and consumed outside Haryana, it is observed that 80 percent of the exports of CGU's production are made to the states of Delhi and Rajasthan. The exports to the states of Punjab and Uttar Pradesh are insignificant. The Commission also considered the interstate trade flows of cement and observed that

the relevant geographic market for the assessment of proposed combination may include area comprised by states of Haryana and Rajasthan. While arriving at the relevant geographic market, the Commission considered the constraints posed by Uttar Pradesh. It is noted that Uttar Pradesh is net importer of cement and the actual shipments between Haryana and Uttar Pradesh are insignificant. Based on the 2011-12 data, Uttar Pradesh catered to only 0.15 percent of total consumption of Haryana, and Haryana exported eight percent of its production to Uttar Pradesh.

10. The Commission noted that in the relevant market comprising the states of Haryana and Rajasthan, as discussed above, the market shares in terms of installed capacity is 23 percent for SCL and 3 percent for CGU. Thus, the post combination market share of the Acquirer will increase to 26 percent. The market is moderately concentrated but the change in market concentration as indicated by incremental HHI would not be significant.

11. The Commission also noted, based on submissions made by the parties to the combination, that the capacity utilization of the CGU has also been reducing over a period of time and has come down to a level as low as 42 percent in 2013-14 and 19 percent in first quarter of 2014-15. The parties have stated that this reduction in the capacity utilization is due to the higher cost of operating the CGU vis a vis other plants of JAL and high logistics cost of transporting clinker from JAL's Baga unit in Himachal Pradesh. It has been stated further by the parties that JAL has sufficient grinding capacity for utilization of its clinker resources in northern India even after the transfer of CGU to SCL, whereas SCL needs additional cement grinding capacity to fully utilize its available clinker production capacity.

12. Considering the facts on record and the details provided in the notice given under sub-section (2) of section 6 of the Act and assessment of the proposed combination on the basis of factors stated in sub-section (4) of section 20 of the Act, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India in any of the relevant market(s) and therefore, the Commission hereby approves the same under sub-section (1) of section 31 of the Act.

13. This approval is without prejudice to any other legal/statutory obligations as applicable.

14. This order shall stand revoked if, at any time, the information provided by the parties is found to be incorrect.

15. The Secretary is directed to communicate to the Acquirer accordingly.