

06.07.2022

UltraTech Cement Limited,  
Ahura Centre, B - Wing,  
2<sup>nd</sup> Floor, Mahakali Caves Road,  
Andheri (East), Mumbai – 400093.

Attn: Mr. Sanjeeb Kumar Chatterjee / Mr. Sushil Kumar Pathak

**Subject:** Redemption of Series A RPS and return of the JP Super Plant to JAL under the MIA and the RPS Escrow Agreement.

We are in receipt of email below of 2.07.2022 at 2.26 pm received from Mr. Sushil Kumar Pathak on 2.07.2022 (“UTCL 0207 Email”).

Please note that hard copy of our letter dated 25.06.2022, as attached to our mail dated 29.06.2022 sent at 23.10 pm, was also sent through registered post vide receipt number RD206646637IN\_from Lodi Road, New Delhi Post Office, which has been duly delivered to the addressee at your office, the Escrow Agent and the Escrow Bank on 05.07.2022. The contents of our aforesaid letter dated 25.06.2022 to UTCL (“JAL 2906 Letter”) are repeated herein, which contents are deemed to be incorporated by reference into this notice.

As regards your mail and letter dated 29<sup>th</sup> June, 2022 stated to have been sent on 29.06.2022 at 19.09 and 19.10 hrs (“UTCL 2906 Letter”), please note that we have rechecked our mailing setup thoroughly through our IT Team and found that no such mail (as claimed) had reached our mail firewall, though other mails from ‘aditybirla.com’ are being received smoothly. We are using foolproof Barracuda Anti SPAM Firewall, which logs every incoming and outgoing email in its log whether the same has been delivered successfully or blocked/deferred/queued due to any reasons. We have kept these logs securely in our archive for any future reference. You may like to have the position rechecked at your end as it appears that said mail never got released from your email server/firewall for the reasons best known to you. While in your mail dated 02.07.2022 under reply, you have referred to the mail and UTCL 2906 Letter stated to have been sent on 29.06.2022 at 19.09 hrs and 19.10 hrs, the screenshot now forwarded show the time of the mail addressed to [sectl.dept@jalindia.co.in](mailto:sectl.dept@jalindia.co.in), [manoj.gaur@jalindia.co.in](mailto:manoj.gaur@jalindia.co.in), [alok.gaur@jalindia.co.in](mailto:alok.gaur@jalindia.co.in), [mm.sibbal@jalindia.co.in](mailto:mm.sibbal@jalindia.co.in) with cc to Atul Daga, Sujeet Jain, Saurabh Chakravarty, Akanksha Srivastava and Sushil Pathak as **19.09 hrs** and the other one addressed to [mumbai@vistra.com](mailto:mumbai@vistra.com), [escrow@icicibank.com](mailto:escrow@icicibank.com) with copy to Atul Daga, Sujeet Jain, Saurabh Chakravarty, Akanksha Srivastava and Sushil Pathak as **19.11 hrs**. **On the contrary, in your mail dt.30.06.2022 sent at 12.39 hrs** you have asserted having sent us a mail **at 19.10 hrs on 29.06.2022** purportedly having conveyed about the fulfilment of condition listed in item no.39 of Schedule XVII of MIA. It seems that you have preferred not to send us the screen shot of your mail claimed to have been sent at 19.10 hrs on 29.06.2022 for the reasons best known to you. As already stated, we have not received either of your mails claimed to have been sent at 19.09 hrs., 19.10 hrs or 19.11 hrs on 29.6.2022. Even sending of two separate mails to the addressees of the same letter at 19.09 and 19.10 Hrs does not stand to logic. Further, while with your earlier mail dated 01.07.2022 sent at 23.00 hrs., you had referred to and forwarded copy of your letter dated 29.06.2022 stated to have been addressed

**Registered Office :** Sector-128, Noida - 201 304, Uttar Pradesh (India)

Phone : +91 (120) 2470800

**Corporate Office :** JA House, 63, Basant Lok, Vasant Vihar, New Delhi-110057 (India)

Phone : +91 (11) 49828500 Fax : +91 (11) 26145389

CIN : L14106UP1995PLC019017 Website : [www.jalindia.com](http://www.jalindia.com)

E-mail : [jal.investor@jalindia.co.in](mailto:jal.investor@jalindia.co.in)



to Mr. MM Sibbal & Mr. Sandeep Sabharwal, with copies to Vistra and ICICI Bank, the screenshots now sent claiming to be of the mails sent at 19.09 hrs and 19.11 hrs on 29.06.2022, indicate different set of addressees. Anyway, we leave the facts to be established at the appropriate stage.

Thus, we reiterate that we have not received UTCL 2906 Letter on June 29.06.2022 and we have received the UTCL 2906 Letter only on 1.07.2022 when sent by Mr. Pathak at 11.00 pm on 1.07.2022.

At the outset we would like to state that we completely deny the contents of UTCL 0207 Email and paragraph 4 to paragraph 11 of the UTCL 2906 Letter.

Furthermore, the Closing Date of the MIA was 29.6.2017 and the 5 (five) years period ended on 28.6.2022. UTCL 2906 Letter purportedly stating for the first time that the Series A Condition has been fulfilled was as per your own admission sent vide email on 29.06.2022 which, assuming though not conceding, was properly transmitted to us shall be deemed to be received by JAL only on 30.06.2022 as per the terms of MIA. Without prejudice to our contentions herein, such intimation of fulfilment of Series A Condition is not valid as per the terms of the MIA, RPS Escrow Agreement and other transaction documents as it has been communicated after the stipulated deadline. Further, in terms of clause 6.1.1 of Escrow Agreement, it was JAL which was required to notify UTCL its claim of fulfilment of Series A condition with supporting evidence and UTCL was supposed to convey its satisfaction over the same within 7 days of such claim by JAL which in fact was not at all notified by JAL in June, 2022. Thus, since the procedure required under clause 6.1.1 of Escrow Agreement has not been followed, your alleged claim that Series A Condition has been fulfilled is not sustainable. On the contrary, JAL's claim dated 19.06.2020 for fulfilment of condition under the same situation was rejected by UTCL vide its letter dt. 25.06.2020 and UTCL 0307 Letter. The status of compliances/approvals remains the same till now and JAL did not send any fresh claim for CP fulfilment after 19.06.2020.

We reiterate that you have always maintained a stand that Series A Condition is not fulfilled and the same is discussed and confirmed by you at various stages whether in your letter dated 3.07.2020 ("UTCL 0307 Letter") or email of Mr. Daga to Mr. Alok Gaur dated 22.03.2022 ("Daga 2203 Email") or email reply of Mr. Daga to Mr. Manoj Gaur dated 02.06.2022 ("Daga 0206 Email") or during any discussions between the parties. The conduct of the parties all along clearly demonstrates that the parties have since the UTCL 0307 Letter clearly acted on the basis the Series A Condition has not been fulfilled.

From all communications received from UTCL and its authorised representatives and also from the existing circumstances, we are convinced that Series A Condition is not satisfied till date and your interpretation of UTCL 0307 Letter is misconceived and an afterthought to renege from your obligation. In our response, we have never expressed the view that all eventualities have been catered towards CP Satisfaction. All that has been expressed in response to your request for RPS renewal is that all eventualities have been catered in the transaction documents and you need to exercise one of the options set out therein upon non fulfilment of Series A Condition within the stipulated deadlines and there was no need for renewal of RPS.

Furthermore, you have failed to provide any evidence which records satisfaction of fulfilment of Series A Condition prior to expiry of the 5 year period. On the contrary, you yourself have provided clear evidences to show that Series A Condition is not satisfied, as set out hereinbelow:

- a. To corroborate non fulfilment of Series A Condition, you have circulated draft documents circulated as late as June-22, 2022 which required JAL to execute letter of authorisations in favour of UTCL so that UTCL can undertake and ensure completion and fulfilment of Series A Condition. If the Series A Condition was fulfilled and only obligation was the payment of costs as claimed by you in UTCL 0207 Email then there was no need for UTCL to send such documents for execution. This act of sending such documents for execution is by itself strong evidence (one out of many) which shows that UTCL believes and has acted on the basis that Series A Condition is not fulfilled.
- b. UTCL also wanted in its favour the conveyance of JAL's 118.850 Ha land for transfer in favour of Forest department as identified for compensatory afforestation, for onward transfer in favour of Forest Department once the requisite approvals were in place. In case the Series A Condition was really fulfilled, as allegedly claimed by UTCL, there was absolutely no need for UTCL to ask for such conveyance in their favour.
- c. if you believed that Series A Condition is fulfilled then there was no need for UTCL to request for renewal of Series A RPS vide Daga 2203 Email. We also believe that UTCL has directly communicated with ICICI Bank asking for extension of RPS by 1 year, which would not have been necessary if Series A Condition had been fulfilled as alleged by UTCL.
- d. Without prejudice, the UTCL 2906 Letter does not crystallise any amount and contemplates an open ended claim against us which demonstrates that as on the date of that letter, neither have requisite approvals been obtained nor are you aware of the costs of such approval and in the circumstances under no stretch of imagination can the Series A Condition be claimed to have been fulfilled on 29.06.2022.
- e. We reiterate that the status of receipt of various approvals remains the same as it was on 19.06.2020 when we claimed fulfilment of condition 39 and you rejected our claim on 25.06. 2020 and 3.07.2020 citing pendency of various approvals. Thereafter, we have not approached you with the claim that the condition under reference has been fulfilled which claim you ought to have accepted within 7 days thereof, making it quite obvious that the condition is not fulfilled. Time of approaching UTCL with a claim of fulfilment of the condition does not change the facts. Hence your reference to our earlier communication seeking RPS redemption before the expiry of 5 years is not relevant.

Further as far as your claim in paragraph 6 of UTCL 0207 Email, you mentioned that there are lapses on part of JAL in respect of land offered for forest clearance which is hereby vehemently denied. We have been diligently working on settling the issue of Forest Clearance with the Government Authorities within the guidelines and alternatives available on the subject and are sure of due compliance with the applicable conditions for such approval at the appropriate stage. Your team had been closely associated and following the entire process. You are well

aware that the present encumbrance over the land has no relevance to the time being taken by the Authorities to give their approval to the Forest related issue. As such your allegation that the entire forest diversion process has got delayed due to your knowledge of encumbrance at this stage is misconceived and the question of any damages on this account does not arise. On one hand you are claiming that the Series A Condition is fulfilled and on the other hand you are raising all these issues including encumbrance on land delaying the approvals, which clearly demonstrates that the Series A Condition is admittedly not fulfilled as yet.

In this regard, we would also like to place on record that JAL, on the request of UTCL entered into good faith negotiations to amicably settle the matter between 28.06.2022 to 29.06.2022 and for which Mr. Manoj Gaur and Mr. Harish Vaid had flown from Delhi and Mr. Harish Vaid also visited UTCL office in Mumbai to settle the documents received from your end ("Failed Amicable Settlement Negotiations"). The Failed Amicable Settlement Negotiations proceeded on the basis of cap on the deduction which JAL should agree to take from Rs. 1,000 crore it was supposed to receive at the end of the 5 year period. During such Failed Amicable Settlement Negotiations, as a package, UTCL also desired JAL to execute a deed of conveyance in its favour for transfer of the 118.850 ha of JAL's land for the forest clearance which JAL was not obligated to do since Series A Condition is not satisfied. However, JAL offered to provide necessary authorisation in favour of UTCL to directly transfer the said land from JAL in favour of the Forest Department. It was supposed to be a package deal which JAL was prepared to accept to conclude the Failed Amicable Settlement Negotiations and the parties had also agreed on the settlement amount based on which the parties had made a commitment to the lenders in a joint call in the afternoon of 29.06.2022. In fact in the said joint call with ICICI Bank on 29.06.2022, UTCL and JAL had even confirmed the settlement reached and the amounts agreed to be deducted by UTCL and balance to be paid to JAL. However, after reaching an amicable settlement but before executing the same, UTCL once again reneged from the same at last moment and Failed Amicable Settlement Negotiations was aborted and conveyed by UTCL to JAL in the late evening of June 29, 2022, quoting non receipt of approval to proceed for redemption. We have ample evidence in this regard to corroborate the aforesaid facts. Having said that, please note that Failed Amicable Settlement Negotiations were without prejudice discussions which were entered into subject to JAL and UTCL agreeing to a cap on the liability of JAL and has itself become null and void owing to breakdown of Failed Amicable Settlement Negotiations. It was only after we were conveyed by UTCL of the reneged Failed Amicable Settlement Negotiations that we released our letter dt. June 25, 2022 (which was held back on receipt of request for Settlement from UTCL) on June 29, 2022 at 11.00 PM.

The above clearly shows that your claim that Series A Condition is fulfilled is fictitious and is a figment of your imagination to illegally retain money from the full amount of redemption payable to JAL and renege from your obligation to redeem Series A Preference Shares.

Also, the costs which are alleged by you as payable by JAL owing to the demand letter dated 11.11.2019 from the government is completely baseless. Such demand from the Government was against JAL's initial application which had become null and void the very moment JAL withdrew its application on 13.12.2019. JAL withdrew the said application because UTCL filed application in its own name on 12.12.2019, which was followed by change of name from JAL to UTCL in the GO issued by the Govt of UP, at the instance of UTCL. Accordingly, your

claim that costs have to be paid by JAL towards fulfilment of Series A Condition is also unfounded and not legally tenable.

In the light of what is stated above, your claim that UTCL has undertaken completion of forest diversion process subject to deduction of necessary costs from RPS Proceeds in terms of MIA and RPS Escrow Agreement is false and misleading as JAL has never agreed to such deduction. The Series A Condition has not been fulfilled and the procedure required under clause 6.1.1 of the RPS Escrow Agreement has not been followed and your claim that you have exercised your right to confirm fulfilment of Series A Condition is not legally tenable. Accordingly, the question of any adjustment of redemption proceeds or joint notice under clause 6.1.2 of the RPS Escrow Agreement does not arise at all and it is only the consequences under clause 6.1.4 of the RPS Escrow Agreement that can follow.

You failed to Redeem Series A Preference Shares within the prescribed time and have committed default under law including the Companies Act 2013. You have not exercised the option within 2 days of expiry of the 5 year period as stipulated in Clause 6.1.4 of the RPS Escrow Agreement dated 28 June, 2017. You have not issued necessary instructions to the Escrow Agent which you were supposed to give as per the said RPS Escrow Agreement. These are the few instances out of many which reflect your conduct in complete disregard to the provisions of the transaction documents. So it is not JAL who has defaulted rather it is UTCL who has defaulted under the MIA and law. We do understand your predicament/ compulsion that being a AAA Company of repute and having failed to honour your commitment to redeem the RPS on due date, you have no alternate but to put the blame on others which will not help in this case as the facts are matter of record, known to all concerned and the entire transaction had been carried out in most transparent manner within the knowledge and supervision of JAL's Lenders all through. As such, in this case, you will not succeed passing on to JAL the blame of your failure to redeem the Series A RPS.

As regards your reference in your letter dated 29.06.2022 (received by us through your mail dated 01.07.2022) to the redemption of your RPS held by Jaypee Cement Corporation Ltd. (JCCL), please note that the same is not relevant for Series A RPS held by us and we are convinced that you have only attempted to create illusion by redeeming the said RPS aggregating Rs.10 lac, which is only a pittance as against your failed commitment to redeem Series A RPS aggregating Rs.1,000 Crores held by JAL.

You have not funded the JAL Escrow Account with Rs. 1000 crores along with 18% interest for the period of delay from the due date, which you were obligated to for redeeming the preference shares. You have defaulted in the redemption of the said preference shares. You have failed to notify the said default to the stock exchanges. Additionally, you shall be liable for all consequences under various statutes including the Companies Act owing to the said default.

As per clause 22.3(c) of the MIA, UTCL was obligated to exercise its option of waiving or not waiving the Series A Condition within 2 days after the expiry of tenor of Series A Condition and UTCL failed to exercise such option within the said 2 days.

Accordingly, since you have not exercised your option to waive the Series A Condition by paying the redemption proceeds within two days, it means that you have not waived the Series



**Registered Office** : Sector-128, Noida - 201 304, Uttar Pradesh (India)  
Phone : +91 (120) 2470800  
**Corporate Office** : JA House, 63, Basant Lok, Vasant Vihar, New Delhi-110057 (India)  
Phone : +91 (11) 49828500 Fax : +91 (11) 26145389  
CIN : L14106UP1995PLC019017 Website : www.jalindia.com  
E-mail : jal.investor@jalindia.co.in

A Condition and accordingly **UTCL's right** to obtain the transfer and vesting of JP Super Plant along with the mines under blocks 1,2, 3 and 4, **has ceased**. Therefore, we request you to handover the possession of the JP Super Plant along with the mines under blocks 1,2,3 and 4 back to JAL within 7 days of receipt of this letter. We put UTCL to notice that it shall be liable for any risk, costs, damages, claims, opportunity loss and consequences in respect of the illegal occupation and non-return of JP Super Plant along with the mines under blocks 1,2,3 and 4.

The above is without prejudice to our rights.

Capitalised terms used herein but not defined shall have the meanings assign to them in MIA and the RPS Escrow Agreement.

Thanks

For Jaiprakash Associates Limited



M.M. Sibbal

Authorised Representative



CC:

1. Mr. Sanjeeb Kumar Chatterjee,  
Company Secretary,  
UltraTech Cements Limited.  
Ahura Centre, B-Wing,  
2<sup>nd</sup> Floor, Mahakali Caves Road,  
Andheri (East), Mumbai – 400093  
sanjeeb.chatterjee@adityabirla.com
2. ICICI Bank Limited  
Autumn Estate, 'B' Wing  
3rd Floor, Chandivali Fram Road,  
Behind Chandivali Studio,  
Chandivali, Andheri (East)  
Mumbai-400072  
Email: escrow@icicibank.com  
Attention: Escrow Operation Team.
3. Vistra ITCL (India) Limited  
IL&FS Financial Centre, Plot C-22  
G Block, BandraKurla Complex  
Bandra (E) Mumbai – 400051  
Fax: 022 26533247  
Email: mumbai@vistra.com  
Tel-0222659353  
Attention: Senior Vice President