

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

13. C.A. 193/2023

IN

C.P.(CAA)/145/MB/2022

IN

C.A.(CAA)/68/MB/2022

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)  
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **04.05.2023**

NAME OF THE PARTIES: National Peroxide Limited.

SECTION 230-232 OF COMPANIES ACT, 2013

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**ORDER**

**C.A. 193/2023**

Mr. Gaurav Joshi, counsel appearing for the applicant is present through virtual hearing.

The above application is filed by the Applicant seeking urgent listing of C.P.(CAA)/145/MB/2022.

Since the C.P.(CAA)/145/MB/2022 is already listed on today's board, the above C.A. 193/2023 becomes infructuous and disposed of.

**C.P.(CAA)/145/MB/2022**

Heard the counsel appearing for the petitioner and the above company petition is **allowed**. Detailed order would follow:

Ms. Rupa Sutar representative of Regional Director Western Region is present and submits that most of the objections raised by RD are routine in nature and RD has no objection for approving the scheme.

Sd/-  
MADHU SINHA  
Member (Technical)  
//RKS//

Sd/-  
H. V. SUBBA RAO  
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
COURT ROOM - III, MUMBAI BENCH**

**CP (CAA) NO. 145 OF 2022  
CONNECTED WITH  
CA (CAA) NO. 68 OF 2022**

**IN THE MATTER OF SECTIONS  
230 TO 232 AND OTHER  
APPLICABLE PROVISIONS OF THE  
COMPANIES ACT, 2013  
AND**

**IN THE MATTER OF THE  
COMPOSITE SCHEME OF  
ARRANGEMENT AMONGST  
NATIONAL PEROXIDE LIMITED  
AND NAPEROL INVESTMENTS  
LIMITED AND NPL CHEMICALS  
LIMITED AND THEIR RESPECTIVE  
SHAREHOLDERS AND CREDITORS**

1. **National Peroxide Limited**, a )  
company incorporated under the )  
Indian Companies Act, 1913 )  
having Corporate Identity )  
Number: )  
L24299MH1954PLC009254 and )  
having its registered office at ) **... First Petitioner**  
Neville House, J. N. Heredia ) **Company/**  
Marg, Ballard Estate, Mumbai - ) **Transferee Company /**  
400 001 ) **Demerged Company /**

2. **Naperol Investments Limited**, a  
company incorporated under the )  
Companies Act, 1956 having )  
Corporate Identity Number: )  
U65990MH1980PLC022589 and )  
having its registered office at )  
Neville House, J. N. Heredia ) **... Second Petitioner**  
Marg, Ballard Estate, Mumbai - ) **Company /**  
400 001 ) **Transferor Company**  
)
3. **NPL Chemicals Limited**, a )  
company incorporated under the )  
Companies Act, 2013 having )  
Corporate Identity Number: )  
U24290MH2020PLC342890, and )  
having its registered office at )  
Neville House, J. N. Heredia ) **... Third Petitioner Company**  
Marg, Ballard Estate, Mumbai - ) **/ Resulting Company**  
400 001 )

**... collectively referred to as “Petitioner Companies”**

Order delivered on this 4<sup>th</sup> day of May, 2023

**Coram:** Shri H. V. Subba Rao, Hon’ble Member (Judicial)  
Ms. Madhu Sinha, Hon’ble Member (Technical)

*Appearances (via video conferencing):*

**For the Petitioner Companies:** Senior Counsel Mr. Gaurav Joshi  
a/w Mr. Peshwan Jehangir, Mr.  
Mehul Shah, Mr. Haabil Vahanvaty,  
Mr. Aman Yagnik, Mr. Jamsheed  
Dadachanji and Mr. Ayush Jain i/b  
Khaitan & Co, Advocates for the  
Petitioner Companies

**ORDER**

1. The Bench is convened by video conference today.
2. Heard Learned Senior Counsel for Petitioner Companies. No objector has come before the Hon'ble Tribunal to oppose the Petition and nor has any party controverted any averments made in the Petition.
3. National Peroxide Limited (hereinafter referred to as the "**First Petitioner Company/ Transferee Company/ Demerged Company**"), Naperol Investments Limited (hereinafter referred to as the "**Second Petitioner Company/ Transferor Company**") and NPL Chemicals Limited (hereinafter referred to as the "**Third Petitioner Company/ Resulting Company**") are entering into a composite scheme of arrangement. For the sake of convenience, the First Petitioner Company, the Second Petitioner Company and the Third Petitioner Company may be collectively referred to as "**Petitioner Companies**" wherever required. The Scheme provides for (i) demerger, transfer and vesting of the Demerged Undertaking (*as defined in the Scheme*) from the First Petitioner Company into the Third Petitioner Company on a going concern basis, and the consequent issue of shares by the Third Petitioner Company in the manner set out in the Scheme; (ii) amalgamation of the Second

Petitioner Company with the First Petitioner Company in the manner set out in the Scheme; and (iii) the reduction of the share capital of the Third Petitioner Company in the manner set out in the Scheme. The Petitioner Companies are part of the same corporate group.

4. The Second Petitioner Company and Third Petitioner Company are wholly owned subsidiaries of the First Petitioner Company. The registered office of all Petitioner Companies is situated in Mumbai, Maharashtra. The subject matter of this Petition is within the jurisdiction of the National Company Law Tribunal, Mumbai Bench.
5. The Learned Senior Counsel for the Petitioner Companies submits that the circumstances and/or reasons and/or grounds that have necessitated and/or justified the Scheme and some of the major benefits which would accrue from the Scheme are stated below:

***“RATIONALE FOR THIS SCHEME***

*(i) The Transferee/ Demerged Company is engaged in business of manufacturing of and dealing in peroxygen chemicals and is one of the largest manufacturer of hydrogen peroxide in India, with an installed capacity of 150 KTPA on 50% w/w basis. The Transferee/ Demerged Company also owns certain strategic investments and is also engaged in the business of making long term investments and corporate lending directly and also through its wholly owned subsidiary viz., the Transferor Company.*

*(ii) The nature and competition involved in each of the aforementioned businesses is distinct and it is capable of*

*attracting a different set of investors, strategic partners, lenders and other stakeholders.*

- (iii) *Further for growth and expansion of the said chemical business and the investment and corporate lending business, differentiated strategy is required to be aligned to the industry specific risks, market dynamics and growth trajectory.*
- (iv) *With a view to reorganise the businesses of the Transferee/ Demerged Company, it is proposed to bring the said chemical business of the Demerged/ Transferee Company under the aegis of the Resulting Company and amalgamate the Transferor Company, engaged in the business of long term investment and corporate lending, with the Transferee Company. This, inter alia, result in the following benefits:*
- (a) *unlocking the value of each of the businesses for the shareholders of the Transferee/ Demerged Company, attracting investors and providing better flexibility in accessing capital;*
- (b) *segregating different businesses having different risk and return profiles, and providing investors with better flexibility to select investments which best suit their investment strategies and risk profile; and*
- (c) *enabling focused growth strategy for each of the businesses for exploiting opportunities specific to each business.*

*The Scheme (as defined hereinafter) is in the best interests of the shareholders, employees and the creditors of each of the Parties (as defined hereinafter).”*

6. The Learned Senior Counsel for the Petitioner Companies submits that the Company Scheme Petition is filed in consonance with Section 230 to 232 and other applicable provisions of the Companies Act, 2013 and the Order dated 7<sup>th</sup> April 2022 passed in the CA (CAA) No. 68/MB/2022 (“**said Order**”) by this Hon’ble Tribunal.
7. The Learned Senior Counsel for the Petitioner Companies submits that on 21<sup>st</sup> July 2022, the Company Scheme Petition was heard for admission and the date for hearing and final disposal was fixed as 25<sup>th</sup> August 2022. The Petitioner Companies were directed to cause publication of the advertisement for final hearing of this matter at least 10 (ten) clear days before the date fixed in ‘Business Standards in English language and Marathi translation thereof in ‘Navshakti’. The Petitioner Companies caused publication in the said newspapers on 12<sup>th</sup> August 2022. The Petitioner Companies also issued notices to various statutory authorities indicating the date of final hearing. The Petitioner Companies have filed a Compliance Report on 22<sup>nd</sup> August 2022 evidencing the publication and service of notices.
8. Thereafter, the Board of Directors of the Petitioner Companies at their respective meetings held on 20<sup>th</sup> September 2022 (in the case of the First Petitioner Company) and 21<sup>st</sup> September 2022 (in the case of the Second Petitioner Company and Third Petitioner Company) considered and approved certain amendments to the original composite scheme of arrangement. By order dated 30<sup>th</sup> November 2022 in Company Application no. 526 of 2022, this Hon’ble Tribunal was pleased to allow the said Company Application and took on record the Scheme, while permitting the Petitioner Companies to carry out amendments to the Company Scheme Petition and serve a copy of the amended Company Scheme Petition to the various statutory authorities. The Petitioner

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Companies have filed a Compliance Report on 11<sup>th</sup> April 2023 evidencing service of the amended Company Scheme Petition on the various statutory authorities.

9. Accordingly, the Learned Senior Counsel for the Petitioner Companies states that the Petitioner Companies have complied with all the requirements as per the directions of this Hon'ble Tribunal.
10. The Regional Director ("**RD**") has filed its Report dated 20<sup>th</sup> March 2023 ("**Report**") praying that this Hon'ble Tribunal may pass such orders as it thinks fit, save and except as stated in Paragraphs 2(a) to (l). The observations of the RD, the reply of the Petitioner Companies is set out in tabular format below:

<b>Sr No</b>	<b>Observations in Report filed by RD</b>	<b>Reply of Petitioner Companies</b>
(a)	<p><i>That on examination of the report of the Registrar of Companies, Mumbai dated 29.06.2022 for Petitioner Companies (Annexed as Annexure A-1) that the Petitioner Companies falls within the jurisdiction of ROC, Mumbai. It is submitted that no representation regarding the proposed scheme of Amalgamation has been received against the Petitioner Companies. Further, the Petitioner Companies has filed Financial Statements up to 31.03.2021.</i></p> <p><i>Observations of ROC as per Annexure A-1:</i></p> <p><i>1. That the Registrar of Companies Mumbai in his report dated 29.06.2022 has stated that No Inspections, Inquiry, Investigations, Prosecutions, Technical Scrutiny, and</i></p>	<p>The Petitioner Companies undertake to comply with provisions of Section 232 (3) (i) of the Companies Act, 2013. The fees payable by the Transferee Company on clubbing of authorised share capital of the Transferor Company shall be set off against the fees already paid by the Transferor Company for its authorised share capital</p>



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	<p><i>Complaints are pending against the Petitioner Companies.</i></p> <p><i>2. The applicant company mainly Naperol Investments Limited (Transferor Company) is NBFC by letter dated 08.02.2022, the RBI has granted it's no objection to the scheme.</i></p> <p><i>3. As per the provisions of Section 230(3)(i) of the Companies Act, 2013, where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set-off against any fees payable by the Transferee company on its authorized capital subsequent to the amalgamation. Therefore, remaining fee, if any after setting off the fees already paid by the transferor company on its authorized capital, must be paid by the transferee company on the increased authorized capital subsequent to the amalgamation.</i></p> <p><i>4. Interest of the creditors should be protected.</i></p>	<p>in accordance with the provisions of Section 232 (3) (i) of the Companies Act, 2013. Further, the Petitioner Companies state that the interest of creditors of Petitioner Companies are not adversely affected by the present Scheme and their respective dues will be paid in the normal course of business.</p>
(c)	<p><i>Transferee company should undertake to comply with the provisions of section 232(3)(i) of the Companies Act, 2013 through appropriate affirmation in respect of fees payable by Transferee Company for increase of share capital on account of merger of transfer of companies.</i></p>	<p>The Petitioner Companies undertake to comply with provisions of Section 232 (3) (i) of the Companies Act, 2013. The fees payable by the Transferee Company on clubbing of authorised share capital of the Transferor Company shall be set off</p>

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		against the fees already paid by the Transferor Company for its authorised share capital in accordance with the provisions of Section 232 (3) (i) of the Companies Act, 2013.
(d)	<i>In compliance of Accounting Standard-14 or IND-AS 103, as may be applicable, the resultant company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards including AS-5 or IND AS-8 etc.</i>	The Petitioner Companies undertake to pass such accounting entries which are necessary in connection with the Scheme to comply with such accounting standards notified under Section 133 of the Companies Act, 2013 as may be applicable to the Petitioner Companies.
(e)	<i>The Hon'ble Tribunal may kindly direct the Petitioner Companies to file an affidavit to the extent that the Scheme enclosed to the Company Application and Company Petition are one and same and there is no discrepancy, or no change is made.</i>	The Petitioner Companies submit that initially the Scheme enclosed to the Company Scheme Application and the Scheme enclosed to the Company Scheme Petition were same and there was no discrepancy. However,

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		<p>the Board of Directors of the Petitioner Companies at their respective board meetings held on 20 September 2022 (in case of the First Petitioner Company) and 21 September 2022 (in case of the Second Petitioner Company and the Third Petitioner Company) have considered and approved certain amendments to the Scheme. Further, Company Application No. 56 of 2022 was filed by the Petitioner Companies to place the amended Scheme on record and make necessary and consequential amendments in the Company Scheme Petition. Pursuant to the Order dated 30 November 2022 of the Hon'ble Tribunal, the amended Scheme was taken on record and the Petitioner Companies</p>
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		<p>were allowed to carry out necessary amendments to the Company Scheme Petition. Further, the amended Company Scheme Petition along with the amended Scheme was also served on the concerned statutory authorities by the Petitioner Companies. A copy of the amended scheme is annexed to the Company Scheme Petition as Annexure A-18.</p>
(f)	<p><i>The Petitioner Companies under provisions of section 230(5) of the Companies Act 2013 have to serve notices to concerned authorities which are likely to be affected by the Amalgamation or arrangement. Further, the approval of the scheme by the Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities shall be binding on the petitioner companies concerned</i></p>	<p>The Petitioner Companies submit that notices under the provisions of section 230(5) of the Companies Act, 2013 have been served to the concerned authorities, in compliance with the directions of the Hon'ble Tribunal and no objection has been received from any of the authorities. Further, the Petitioner Companies shall be bound by any</p>

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		decision of the concerned authorities that is made in accordance with law.
(g)	<p><i>As per Definition of the Scheme,</i>  <b>“Appointed Date” means opening of business hours of 1 April 2022;</b>  <b>“Effective Date” means the day on which the last of the approvals/ conditions specified in Clause 31 (Conditions Precedent) of this Scheme are obtained or complied with.</b>  <b>Reference in this Scheme to the date of “coming into effect of this Scheme” or “effectiveness of this Scheme” shall mean the Effective Date;</b>  <i>It is submitted that the Petitioners may be asked to comply with the requirements as clarified vide circular no. F. No. 7 /12/ 2019/CL-I dated 21.08.2019 issued by the Ministry of Corporate Affairs.</i></p>	<p>The Petitioner Companies submit that the present Scheme is in compliance with the requirements of circular no. F. No. 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.</p>
(h)	<p><i>Petitioner Companies shall undertake to comply with the directions of the concerned sectoral Regulatory, if so required.</i></p>	<p>The Petitioner Companies undertake to comply with the directions of the concerned sectoral Regulatory, as applicable, from time to time as may be required.</p>
(i)	<p><i>Petitioner Companies shall undertake to comply with the directions of Income tax department, if any.</i></p>	<p>The Petitioner Companies undertake to comply with the</p>

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		directions of the Income tax department, if any.
(j)	<i>Petitioner Transferor / Demerged Company is listed company; and BSE has issued observation letter dated 18.11.2021, hence Petitioner Companies shall undertake comply with the observations pointed out by BSE.</i>	The First Petitioner Company i.e. listed Company, states that it has complied with the observations pointed out by BSE <i>vide</i> its observation letter dated 18 November 2021 and undertakes further compliance, if any, from time to time.
(k)	<i>Petitioner Companies has foreign shareholders; hence Petitioner Companies shall undertake to submit acknowledged copy of notice served to RBI, FEMA, FERA u/ s. 230(5) of CA, 2013 in form CAA-3</i>	The Petitioner Companies state that the Reserve Bank of India (“ <b>RBI</b> ”) <i>vide</i> letter dated 8 February 2022, granted its no objection to the Scheme. Accordingly, this Hon’ble Tribunal <i>vide</i> order dated 7 April 2022 was pleased to dispense with the requirement to serve notice to the RBI under Section 230(5) of the Companies Act 2013. The Petitioner Companies have complied with the directions of the Hon’ble

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		<p>Tribunal in relation to service of notice to the concerned statutory authorities under Section 230(5) of the Companies Act 2013. Further, the Petitioner Companies state that RBI was intimated in relation to the amendments made to the Scheme, whereby, RBI <i>vide</i> its letter dated 3 January 2023, has taken on record the amendments to the Scheme. The Petitioner Companies undertake to comply with all applicable laws in relation to issuance of shares pursuant to the Scheme.</p>												
(l)	<p><b>As per shareholding pattern as on 01.04.2022 submitted by the</b> <i>Petitioner company, details of shareholding is as follows:-</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;">Sr. No.</th> <th style="text-align: center;">Petitioner Company</th> <th style="text-align: center;">Name of Share holders</th> <th style="text-align: center;">No. of shares</th> <th style="text-align: center;">% of share</th> <th style="text-align: center;">Remark</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">Naperol Investm</td> <td style="text-align: center;">Nationa l</td> <td style="text-align: center;">25,500</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">Form BEN-</td> </tr> </tbody> </table>	Sr. No.	Petitioner Company	Name of Share holders	No. of shares	% of share	Remark	1	Naperol Investm	Nationa l	25,500	100%	Form BEN-	<p>The Petitioner Companies state that the Second Petitioner Company and the Third Petitioner Company, respectively, have filed Form BEN-2, <b>SRN F60260890 and F60258910,</b></p>
Sr. No.	Petitioner Company	Name of Share holders	No. of shares	% of share	Remark									
1	Naperol Investm	Nationa l	25,500	100%	Form BEN-									

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	<i>ents Limited</i>	<i>Peroxide Limited</i>	<i>10,000</i>	<i>100%</i>	<i>2 has not been filed by the Petitioner Company as per records available at MCA 21 Portal</i>	<b>respectively, dated 4 April 2023, and the Petitioner Companies</b> undertakes further compliance, if any, from time to time.
2	<i>NPL Chemicals Limited</i>					
<p><i>No Form BEN-2 has been filed by any of the Petitioner Company as per records available at MCA21 Portal, hence Petitioner Companies shall undertake to comply with the provisions of section 90 of Companies Act, 2013 r/w. Companies (Significant Beneficial Owners) Amendment Rules, 2019, thereunder and to file Form BEN-2 for declaring name of the significant beneficial owner with concerned Registrar of Companies.</i></p>						

11. Ms. Rupa Sutar, Deputy Director, Office of Regional Director (WR), Mumbai, appeared on the date of hearing and submits that above explanations and clarifications given by the Petitioner Companies



in rejoinder are satisfactory and they have no further objection to the Scheme.

12. Further, the Official Liquidator *vide* his Report dated 3<sup>rd</sup> August 2022 filed with the Hon'ble Tribunal, submits that the affairs of the Petitioner Companies have been conducted in a proper manner. No objections have been raised with respect to the Scheme.
13. From the material on record, the Scheme to the Company Scheme Petition viz. CP (CAA) No. 145 of 2022 appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
14. Since all the requisite statutory compliances have been fulfilled, CP (CAA) No. 145 of 2022 is made absolute in terms of the prayer clauses in paragraphs 32 (a) to (h) thereof.
15. The Scheme is hereby sanctioned, with the Appointed Date fixed as 1<sup>st</sup> April 2022.
16. The Petitioner Companies are directed to file a copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, within 30 (thirty) days from the date of receipt of the certified copy of this Order by the Petitioner Companies.
17. The Petitioner Companies to lodge a copy of this Order along with the Scheme duly authenticated/certified by the Deputy Director or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, within 60

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(sixty) days from the date of receipt of the certified Order from the Registry of this Hon'ble Tribunal.

18. All concerned regulatory authorities to act on a copy of this Order along with Scheme duly certified by the Deputy Director or the Assistant Registrar, National Company Law Tribunal, Mumbai Bench.
19. Any person interested is at liberty to apply to this Hon'ble Tribunal in the above matters for any directions that may be necessary.
20. Any concerned Authorities are at liberty to approach this Hon'ble Tribunal for any further clarification as may be necessary.
21. Ordered accordingly. File to be consigned to records.

Sd/-

Madhu Sinha  
Member (T)

Sd/-

H.V. Subba Rao  
Member (J)