

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. 224/66/NCLT/AHM/2017**

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**  
**Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.03.2018**

Name of the Company: Aditya Birla Epoxy (India) Ltd.

Section of the Companies Act: Section 66 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.

**ORDER**

None present for Petitioner.

Order pronounced in open court. Vide separate sheet.

  
**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

  
**HARIHAR PRAKASH CHATURVEDI**  
**MEMBER JUDICIAL**

Dated this the 12th day of March, 2018.

**NATIONAL COMPANY LAW TRIBUNAL,  
BENCH, AT AHMEDABAD**

**C.P. No.224/66/NCLT/AHM/2017**

In the matter of:-

Aditya Birla Epoxy (India) Limited,  
A company incorporated under the  
Provisions of the Companies Act,  
1956 and having its registered office  
At 'Birlagram, Nagda,  
Dist. Ujjain - 456 331,  
Madhya Pradesh.

Order delivered on 12<sup>th</sup> March, 2018

**Coram: Harihar Prakash Chaturvedi, Member (J)  
And  
Hon'ble Ms. Manorama Kumari, Member (J)**

**Appearance:**

Ms. Hutokshi Wadia, Director, present for the Petitioner.

**Order Confirming Reduction of Share Capital and  
Approving Minutes**

[Per: Ms. Manorama Kumari, Member (J)]

1. This petition under Section 66 of the Companies Act, 2013 is filed for the confirmation of the Special Resolution for the proposed reduction of Share Capital passed in the Extraordinary General Meeting of the Petitioner Company held on 16<sup>th</sup> October, 2017.

2. Heard Ms. Hutokshi Wadia, Director-in-person appeared on behalf of the Petitioner Company. No objector

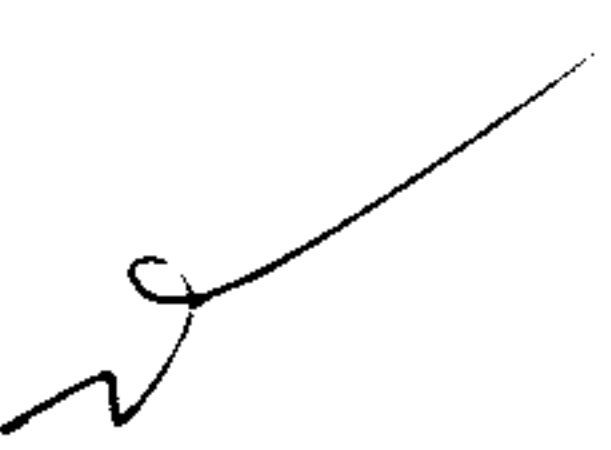


has come before the Tribunal to oppose the petition nor has any party controverted any averments made in the petition.

3. Ms. Hutokshi Wadia has submitted that Article 17 of the Articles of Association of the Company empowers the Petitioner Company to reduce its Share Capital from time to time.

4. It is submitted by Ms. Hutokshi Wadia, Director-in-person for the Petitioner Company that the Board of Directors of the Petitioner Company considered it necessary to reduce the Securities Premium Account of the Company and to restructure the Balance Sheet. Therefore, in the Extraordinary General Meeting of the Company held on 16<sup>th</sup> October, 2017, a Special Resolution was passed to reduce the Share Capital of the Petitioner Company. Relevant portion of the resolution is reproduced below:-


**“RESOLVED THAT** pursuant to Section 66 and Section 52 of the Companies Act, 2013 read with National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016, including any statutory amendments or re-enactments thereof and subject to the confirmation by the Hon’ble National Company Law Tribunal, Bench at Ahmedabad and subject to such terms,



conditions or modifications if any, as may be prescribed by the Hon'ble National Company Law Tribunal, Bench at Ahmedabad, the Share Capital of the Company be reduced by reducing the Securities Premium Account of the Company amounting Rs.33,20,59,000 to Nil and that such reduction be effected by paying out Rs.33,20,59,000 to the shareholders of the Company, in equal proportion.”

**“RESOLVED FURTHER THAT** upon reduction of such share capital, the Securities Premium Account of the Company shall stand reduced to nil.”

**“RESOLVED FURTHER THAT** for the purpose of giving effect to the above resolution, the Board of Directors of the Company (hereinafter referred to as “the Board” which term shall be deemed to include any person(s) authorized and/or Committee which the Board may have constituted or hereinafter constitute to exercise its powers including the powers conferred by this Resolution) or any officer so authorized by the Board, be and is hereby authorized on behalf of the Company to make any modifications, changes, variations, alterations or revisions stipulated by any one of the authorities, statutory or otherwise, while according approval, consent as may be considered



necessary and to execute all documents and writings as may be necessary, proper or expedient and to appoint counsels and advisors, file applications/petitions, issue notices, advertisements, and to do all such acts, deeds, matters and things as it may, in its absolute discretion, deem necessary and with power on behalf of the Company to settle any questions, difficulties or doubts that may arise in this regard without requiring the Board to secured any further consent or approval of the Shareholders of the Company.”

5. This Tribunal, on 27<sup>th</sup> November, 2017, while admitting the petition, ordered the Petitioner Company to issue notices to the Central Government through the Regional Director and all the creditors of the company as per the list enclosed with the petition calling for their representations/objections within three months from the dated of receipt of the notice. The Petitioner Company was also directed to publish notice in Form No.RSC-4 within seven days from the date of the order in English language newspaper “Indian Express”, Indore Edition and Hindi newspaper “Nai Duniya”, Indore Edition stating the proposed reduction in share capital and the place where list of creditors can be inspected and the date of hearing before



this Tribunal requiring them to file their objections, if any, before this Tribunal within three months. Petitioner Company was further directed to upload the publication in website of the Company, if any, seeking objections from creditors within three months. The Petitioner Company was also directed to file an affidavit in Form No.RSC-5 before this Tribunal confirming the dispatch of notices and publication of notice not later than seven days from the date of issuance of notices and publications. The Petitioner Company, accordingly, complied order passed by this Tribunal on 27<sup>th</sup> November, 2017.

6. In response to the notice, the Regional Director filed a representation dated 1<sup>st</sup> February, 2018. In reply to the representation of the Regional Director, the Petitioner Company filed affidavit dated 22<sup>nd</sup> February, 2018.

7. In response to the observations made by the Regional Director in paragraph 2(d) of the representation, in the reply filed by the petitioner, it is stated in paragraph 3 that the Petitioner Company has complied with the requirements of FEMA and RBI Guidelines at the time of inward remittance of funds. In support of this, the Petitioner Company has produced a copy of RBI approval along with the reply. In the



light of the above, this Tribunal is of the view that the observations made by the Regional Director in paragraph 2(d) stand satisfied.

8. In paragraph 2(e) of the representation, the Regional Director has observed that this Tribunal may direct the Petitioner Company to undertake that there is no unaccounted money created through Securities Premium Account during any of the previous years by the Petitioner Company and that the company has paid applicable Income Tax on the said Securities Premium collection. To this, it is stated by the petitioner in paragraph 4 of the reply that there is no unaccounted money created through Securities Premium Account during any of the previous years by the Petitioner Company and that receipt of Securities Premium is of capital nature and there is no occasion of any income on receipt of Securities Premium and, hence, no Income Tax on the said Securities Premium Account was required to be paid. In the light of the above, this Tribunal is of the view that the observation made by the Regional Director in paragraph 2(e) stands satisfied.

9. The Regional Director has, in paragraph 2(f) of the representation observed that, according to the report of the ROC, there are no complaints against the Petitioner



Company. In paragraph 2(g) it is stated that the Regional Director has no other observations/submissions to make.

10. The Petitioner Company has also produced a certificate from Independent Auditor regarding the accounting treatment contained in the proposed Scheme of Arrangement. It is certified by the Auditor that nothing has come to their attention that causes them to believe that the accounting treatment in Annexure 1 is not in conformity with the Accounting Standards specified in Section 133 of the Companies Act, 2013 or any other provisions of the Act.

11. The Director-in-person appearing for the Petitioner Company has submitted that the Petitioner Company has complied with all the statutory requirements as per the directions of this Tribunal and it has filed necessary affidavit of compliance before this Tribunal. None of the parties have come forward to oppose the proposed reduction.

12. Since the requisite statutory procedure has been fulfilled, this petition is allowed. The Special Resolution as approved by the shareholders for Reduction of Share Capital in their Extraordinary General Meeting held on 16<sup>th</sup> October, 2017 is confirmed.



13. The minutes set forth in the Schedule hereto be and is hereby approved.

14. The petitioner to publish notices about registration of order and minutes of reduction by the Registrar of Companies, Gujarat, in two newspapers, namely, English newspaper "Indian Express" and Hindi newspaper "Nai Duniya", both Indore Edition, within 30 days of registration.

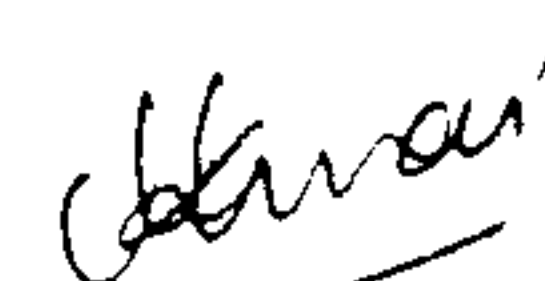
15. That a certified copy of this order including the minute as approved be delivered to the Registrar of Companies within thirty days of receipt of the order.

16. All concerned regulatory authorities to act on certified copy of the order duly certified by the Deputy Registrar, National Company Law Tribunal.

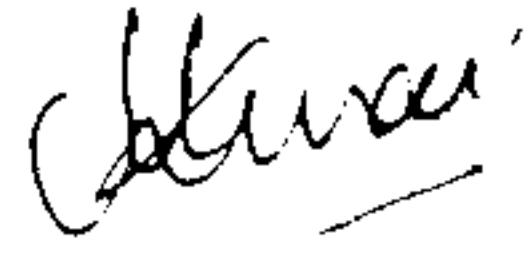
Dated this 5th day of March, 2018.

### **SCHEDULE**

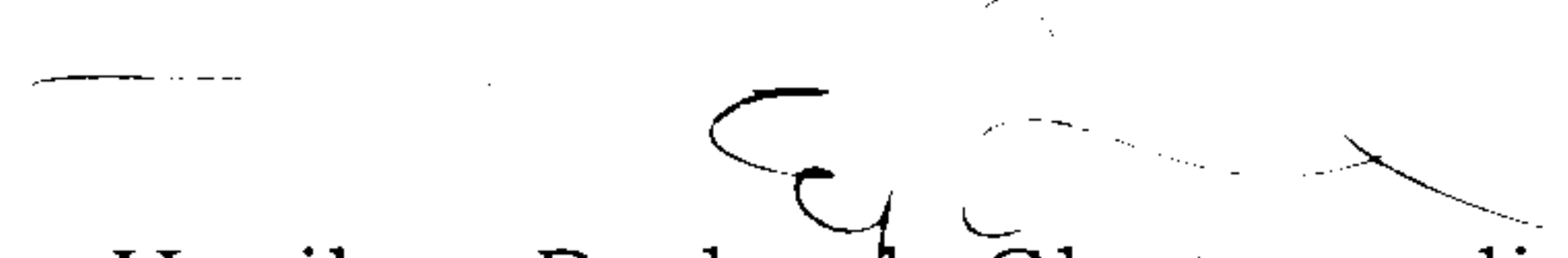
"The issued, subscribed and paid-up share capital of Aditya Birla Epoxy (India) Limited is Rs.5,91,000/- divided into 59,100 equity shares of Rs.10/- each. The Securities



Premium Account of the Company is henceforth Nil,  
reduced from Rs.33,20,59,000/-“



Ms. Manorama Kumari  
Member (J)



Harihar Prakash Chaturvedi  
Member (J)

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