

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENCH, AT MUMBAI
COMPANY APPLICATION NO. 179 OF 2017.

In the matter of the Companies Act, 2013;
AND

In the matter of Sections 230 to 232 of the
Companies Act, 2013 read with Sections
52, 55 and 66 and other applicable
provisions of the Companies Act, 2013

AND

In the matter of Scheme of Arrangement and
Reconstruction between NIRLEP APPLIANCES
PRIVATE LIMITED, (hereinafter referred to as
"Demerged Company" or "NAPL" or "Applicant
Company") and BHOGALE AUTOMOTIVE
PRIVATE LIMITED, (hereinafter referred to as
"Resulting Company" or "BAPL")

NIRLEP APPLIANCES PRIVATE) LIMITED, (CIN NO.) U27200MH1979PTC021470) a company) incorporated under the Companies Act,) 1956 having its registered office at B-5,) MIDC Industrial Area, Railway Station) Road, Aurangabad - 431005,) Maharashtra)	...Applicant Company.
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Called for Direction

Mr. Chandrakant Mhadeshwar, Advocate for the Applicant

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J)
and SH. V. Nallasenapathy Hon'ble Member (T)

Date: 23rd February, 2017

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Company Application AND UPON HEARING Mr. Chandrakant Mhadeshwar, Advocate for the Applicant Company, AND UPON READING Application along with the Notice of Admission and Company Application and the Exhibits therein referred to, IT IS ORDERED:-

1. The learned Advocate for the Applicant Company states that the Scheme of Demerger will have benefit as under:
 - a. The Demerged Company is undertaking two different businesses, both of which requires specialized skill and

resources viz. production of Non Stick cookware (Consumer Appliances Undertaking) and coating of components used in Automobile Industry (Auto Undertaking). The Resulting Company is engaged in the related business activities, similar to Auto Undertaking and it would, therefore, be advantageous to combine the activities and operations of Auto Undertaking of Demerged Company into a Resulting Company for synergistic linkages and the benefit of financial and other resources of each Undertaking.

2. That a meeting of the Equity Shareholders of NIRLEP APPLIANCES PRIVATE LIMITED, "the Applicant Company" be convened and held at its registered office at B-5, MIDC Industrial Area, Railway Station Road, Aurangabad - 431005, on Thursday, 30th March 2017, at 10.30 a.m. for the purpose of considering, and if thought fit, approving, with or without modification, the arrangement embodied in the Scheme of Arrangement and Reconstruction between Nirlep Appliances Private Limited and Bhogale Automotive Private Limited and their respective shareholders and creditors ("the Scheme").
3. That a meeting of the only one, 10% Optionally Convertible Preference Shareholder of NIRLEP APPLIANCES PRIVATE LIMITED, "the Applicant Company" be convened and held at its registered office at B-5, MIDC Industrial Area, Railway Station Road, Aurangabad - 431005, on Thursday, 30th March 2017, at 11.30 a.m. for the purpose of considering, and if thought fit, approving, with or without modification, the arrangement embodied in the Scheme.
4. That at least 30 clear days before the meeting to be held as aforesaid, a notice convening the said meetings at the place and time aforesaid,

together with a copy of the Scheme of Arrangement and Reconstruction, a copy of the statement required to be sent under Section 230 and the prescribed form of proxy, shall be sent by Registered Post or by courier or by post or by email or by hand delivery to each of the Equity Shareholders and 10% Optionally Convertible Preference Shareholder respectively, at their respective registered or last known addresses/email addresses as per records of the Company.

5. That at least 30 clear days before the meetings to be held as aforesaid, an advertisement convening the said meetings, at the place, date and time aforesaid and stating that copies of the proposed Scheme of Arrangement and Reconstruction and the statement required to be sent pursuant to Section 230 of the Companies Act, 2013 and form of proxy can be obtained free of charge at the registered office of the Applicant Company as aforesaid, shall be published once each in two local news papers viz. "Lokmat Times", in English language and translation thereof in "Ekmat", in Marathi language, both having circulation in Aurangabad.
6. That the Applicant Company undertakes to:-
 - i. Issue Notice convening meeting of the Equity Shareholders and 10% Optionally Convertible Preference Shareholder, as per Form No. CAA2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
 - ii. Issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;

- iii. Issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
- iv. Advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

The said undertaking is accepted.

7. That Mr. Mukund N. Bhogale, Chairman and Managing Director of the Company; failing him Mr. Ramchandra Bhogale, Director of the Company is appointed as the Chairman for the above meetings of Equity Shareholders and 10% Optionally Convertible Preference Shareholder, to be held at its registered office at B-5, MIDC Industrial Area, Railway Station Road, Aurangabad - 431005, on Thursday, 30th March, 2017, at 10.30 a.m. and 11.30 am for the meetings of Equity Shareholders and 10% Optionally Convertible Preference Shareholder respectively, or any adjournment or adjournments thereof. The Scrutinizer for both the meetings shall be Mr. Arun R. Joshi, Practicing Company Secretary.
8. The Chairman appointed for the respective meetings to issue the advertisement and send out the notices of the meetings referred to above. It is further directed that the Chairman of the meeting shall have all powers as per the Articles of Association and as per provision of Companies Act, 2013 and also under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to conduct of the meetings including for deciding any procedural questions that may arise at the meetings or at any adjournment or adjournment(s) or any other matter including an

amendment to the proposed Scheme or Resolution, proposed at the meetings by any person(s) and to ascertain the decision of or the sense of the meeting by a poll.

9. That quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
10. That quorum for the aforesaid meeting of the 10% Optionally Convertible Preference Shareholder shall be 1(one) 10% Optionally Convertible Preference Shareholder, either personally present or present through authorised representative.
11. That voting by proxy / authorized representative is permitted, provided that a proxy in the prescribed form / authorization duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its registered office at B-5, MIDC Industrial Area, Railway Station Road, Aurangabad – 431005, on Tuesday, 28th March, 2017, not later than 48 hours before the meeting, as provided under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
12. That the number and value of Equity Shareholders and 10% Optionally Convertible Preference Shareholder shall be in accordance with the books/register of the Applicant Company and where the entries in the books are disputed, the Chairman shall determine the value for the purpose of the meeting and his decision in that behalf would be final.
13. That the Chairman to file affidavit not less than Seven days before the date fixed for the holding of the Meetings and do report this

Tribunal that the direction regarding the issue of notices and advertisement have been complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

14. That the Chairman appointed for the meetings to report to this Tribunal the result of the said meetings within Three days of the conclusion of the meetings and the said consolidated report for both the meetings shall be verified by his affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
15. That Counsel for the Applicant submit that since the Scheme is an arrangement between the Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders and 10% Optionally Convertible Preference Shareholder is proposed to be held in accordance with the provisions of section 230(1)(b) of the Companies Act 2013. This bench hereby directs the Applicant Company to issue notice to Secured Creditors and Unsecured Creditors either by Registered Post or by courier or by post or by email or by hand delivery as required under section 230(3) of the Companies Act 2013 with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.
16. The Applicant Company to serve the notice upon:- (i) concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made (ii) the Central Government through the office of the Regional Director, Western Region, Ministry

of Corporate Affairs, Mumbai Maharashtra (iii) the concerned Registrar of Companies with a direction they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal and the copy of such representation shall simultaneously be served upon the Applicant company, failing which, it shall be presumed that authorities have no representation to make on the proposal as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

17. The Applicant to file an Affidavit of service of notices issued to Secured and Unsecured Creditors not less than seven days before the date fixed for the holding of the Equity Shareholders' meeting and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-

B.S.V. Prakash Kumar Member (Judicial)

Sd/-

V. Nallasenapathy Member (Technical)