



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT-V**

C.A. (CAA)/246/MB/2022

In the matter of the Companies Act, 2013;

AND

*In the matter of Sections 230 to 232 and other
applicable provisions of the Companies Act, 2013;*

AND

In the matter of Scheme of Merger by Absorption of

Nirlep Appliances Private Limited

*(‘First Applicant Company’ or ‘NAPL’ or ‘Transferor
Company’)*

With

Bajaj Electricals Limited

*(‘Second Applicant Company’ or ‘BEL’ or
‘Transferee Company’) and their respective
Shareholders.*

Nirlep Appliances Private Limited, a)
Private Limited Company, incorporated)
under the Companies Act, 1956 having its)
registered Office situated at Gut No. 16,)
Naigavahan, Khandewadi, Talukpaithan,)
Paithan Road, Naigavahan, Aurangabad –)
431105, Maharashtra, India, having)... First Applicant Company/NAPL
CIN: U27200MH1979PTC021470) Transferor Company

Bajaj Electricals Limited, a Public Limited)
Company incorporated under the Indian)
Companies Act, 1913 having its Registered)



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Office situated at 45/47, Veer Nariman)
Road, Mumbai - 400001, Maharashtra,)
India, having)... Second Applicant Company/BEL
CIN: L31500MH1938PLC009887.) Transferee Company

(The First Applicant Company and the Second Applicant Company are
hereinafter collectively referred to as the 'Applicant Companies')

Order pronounced on: 12.04.2023

Coram:

Hon'ble Shri. Kuldip Kumar Kareer : Hon'ble Member (Judicial)
Hon'ble Smt. Anuradha Sanjay Bhatia : Hon'ble Member (Technical)

Appearance (through video conferencing):

For the Applicant Companies : Mr. Ajit Singh Tawar i/b Ajit
Singh Tawar & Co., Advocates

ORDER

1. The Court convened through video conferencing.
2. The Learned Counsel for the Applicant Companies submits that the present Scheme is a Scheme of Merger by Absorption of Nirlep Appliances Private Limited ('**First Applicant Company**' or '**NAPL**' or '**Transferor Company**') with Bajaj Electricals Limited ('**Second Applicant Company**' or '**BEL**' or '**Transferee Company**') and their respective Shareholders under section 230 to 232 of the Companies Act, 2013 ("**the "Scheme"**"). The Learned Counsel for the Applicant Companies further submits that the Transferor Company is a wholly owned subsidiary of the Transferee Company.





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3. The Learned Counsel for the Applicant Companies submits that the First Applicant Company is engaged in the business of manufacturing aluminum non-stick cookware, hard anodized cookware, pressure cookers in aluminum, hard anodized and SS, tri-ply cookware, whereas, the Second Applicant Company is engaged in the business of diversified range of products and services including sales, distribution and marketing of electrical appliances, manufacture of fans and high masts, poles and towers and products relating to industrial, commercial, and domestic lighting, undertaking turnkey, commercial and rural lighting projects, design, manufacture, erection and commissioning of high masts, poles and towers.
4. The Learned Counsel for the Applicants states that the Board of Directors of the First Applicant Company and Second Applicant Company, have approved the Scheme at their respective Board Meetings held on 29th Day of September 2022. The Board Resolution approving the Scheme for the First Applicant Company and Second Applicant Company are annexed to the Company Scheme.
5. The Learned Counsel for the Applicant Companies submits that **Appointed Date is April 1, 2022**, i.e., from the start of the business hours of April 1, 2022 or such other date as may be mutually agreed by the Board of Directors of the Applicant Companies and conveyed to the Hon'ble National Company Law Tribunal, Mumbai Bench ("NCLT") in writing.
6. The Learned Counsel for the Applicant Companies submits that the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies as on September 30, 2022 is as under:
 - a) The Authorized Share Capital of the First Applicant Company is Rs. 8,50,00,000/- divided into 8,50,000 Equity Shares of Rs.100/- each. The Issued, Subscribed and Paid-up Share Capital of the First





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Applicant Company is Rs. 7,43,55,500/- divided into 7,43,555 Equity Shares of Rs. 100/- each fully paid-up.

- b) The Authorized Share Capital of the Second Applicant Company is Rs. 1,42,50,00,000/- divided into 71,25,00,000 Equity Shares of Rs.2/- each. The Issued, Subscribed and Paid-up Share Capital of the Second Applicant Company is Rs. 22,99,79,028/- divided into 11,49,89,514 Equity Shares of Rs. 2/- each fully paid-up.

7. The Learned Counsel for Applicant Companies submits that the **Transferor Company is a wholly owned subsidiary of the Transferee Company** and accordingly no consideration is payable pursuant to the Scheme of Merger by Absorption.

8. The Learned Counsel for the Applicant Companies further submits that the **rationale for the Scheme** is as follows:

The Transferor Company, is an unlisted company and the Transferee Company, listed on BSE Limited and National Stock Exchange of India Limited, both are a part of the same group. Further, the Transferor Company is a wholly owned subsidiary of the Transferee Company. The proposed Scheme would be in the best interest of the Transferor and Transferee Company and their respective shareholders, employees, creditors and other stakeholders which would help in achieving operational efficiency and streamlining the business operations. Further, this Scheme is expected, inter alia, to result in the following benefits:

- (a) *The Transferor Company is engaged in the business of manufacturing aluminum nonstick cookware, hard anodized cookware, pressure cookers in aluminum, hard anodized and SS, tri-ply cookware and is having its factory situated in Paithan, Aurangabad in the State of Maharashtra. The location is very rich and has significant geographical presence in terms of availability of*





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resources required for manufacturing and it is connected by all sources of modern transportation.

- (b) *Transferee Company is part of the globally renowned Bajaj Group of Companies, one of the largest Indian conglomerates with business interests across several sectors. Transferee Company business is spread across – consumer products (appliances, fans, lighting etc.), and EPC (illumination, transmission towers and power distribution), in India and outside India. Transferee Company has a strong presence in premium home appliance and cookware segments. Transferee Company had added the cookware line business in its portfolio by directly acquiring Transferor Company's 79.85% in August 2018 and balance 20.15% equity shares in financial year 2021-22.*
- (c) *Transferee Company has provided several long-term and short-term loans, as well as trade advances to Transferor Company over the years for meeting its working capital and CAPEX requirements. Transferor Company is primarily involved in the manufacturing of pressure cookers and nonstick cookware products, which are majorly sold to the Transferee Company. Thereafter, the Transferee Company sells these products in the open market under the brand name of Nirlep and Bajaj and pays royalty fees to the Transferor Company for using the brand name of Nirlep. The Merger will result in elimination of the vertical chain and the combined entity thereafter will reap benefits in terms of elimination of inter-company balance and expenses and easier access of funds for the business of the Transferor Company.*
- (d) *Transferor Company has freehold land of ~4 acres which is situated at Aurangabad in the State of Maharashtra. Upon completion of merger, the land, machinery, infrastructure and all other resources*





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available with Transferor Company can be utilized in cost effective and efficient manner to carry out Transferee Company's business expansion. This will maximize the production capacity, boost the capacity utilization, help Transferee Company in meeting increased demands and there will be significant growth in achieving the economies of scale.

- (e) *Further, Transferor Company has good production line, which manufactures good quality of products and has a skilled, competent and experienced labour force which are required for manufacturing such products. Transferee Company will reap long-term benefits by absorbing such production line and skilled labour force including safeguarding the intellectual property and designs of certain products which are proposed to be launched in markets with its unique fit, finish and features, which can distinguish its products from competitors.*
- (f) *Consolidation of Transferor and Transferee Company will help in achieving a linear and simplified corporate organization structure, rationalize the number of entities and result in a single entity with combined businesses. It will also provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, it will also enable optimal utilization of existing resources which are in excess of the current business requirements of the Transferor Company and provide increase in financial stability and an opportunity to fully leverage assets, capacities, experience and infrastructure of Transferor and Transferee Company.*
- (g) *The merger will result in quicker decision making by reduction in managerial overlaps involved in operating multiple entities, enable cost savings and effective utilization of valuable resources which*





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will enhance the management focus thereby leading to increase in operational and management efficiency; integrate business functions; eliminate duplication and rationalization of administrative expenses.

- (h) *Synchronization of efforts to achieve uniform corporate policy, greater integration and greater financial strength and flexibility for the Transferee Company.*
- (i) *Upon completion of the Merger, Transferor Company will be dissolved. Consequently, there would be lesser regulatory and legal compliance obligations including accounting, reporting requirements, tax filings, company law compliances etc. and therefore reduction in administrative costs.*

9. The Learned Counsel for the Applicant Companies submits, that there are five (5) Directors in the First Applicant Company and ten (10) Directors in the Second Applicant Company. The lists of Directors of the respective Applicant Companies were annexed to the Company Scheme Application.
10. The Learned Counsel for the Applicant Companies submits that there are **seven (7) Equity Shareholders in the Transferor Company**. The entire Equity Share Capital of the Transferor Company is held, directly and jointly with the nominee shareholders, by the Transferee Company, and accordingly, the Transferor Company is a wholly owned subsidiary of the Transferee Company. The Transferee Company along with the nominee shareholders, **has provided their consent affidavit(s)** to dispense from convening and conducting the Meeting of the Equity Shareholders of the Transferor Company, Accordingly, the Meeting of the Equity Shareholders of the First Applicant Company is hereby dispensed with.





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11. The Learned Counsel for the Applicant Companies submits that there are **Seventy-Two Thousand Five Hundred and Seventy-Three (72573) Equity Shareholders in the Transferee Company** as on 30th June 2022. The Learned Counsel for the Applicant Companies further submits that since the **merger is of a wholly owned subsidiary company into its holding company**, no consideration shall be payable pursuant to merger of Transferor Company with the Transferee Company as the entire share capital of the Transferor Company is directly held by the Transferee Company and its nominees and therefore no shares of Transferee Company would be issued or allotted pursuant to the merger. The proposed Scheme will not result in any dilution in shareholding of the Transferee Company. The existence of the Transferee Company will remain as before without any reorganization to its shareholding pattern. Therefore, the Learned Counsel for the Transferee Company submits that since no reconstruction or arrangement will happen with its shareholders, thus, it does not require to hold shareholders' meeting for approval of the proposed Scheme. Accordingly, **the Meeting of the Equity Shareholders of the Second Applicant Company is hereby dispensed with.**

12. The Learned Counsel for the Applicant Companies submits that, there is **One (1) Secured Creditor in First Applicant Company** having outstanding value of Rs. 8,84,10,613/- as on June 30, 2022 and the First Applicant Company has obtained the **No Objection Letter from the said Secured Creditor** as on 25th day of November, 2022. The said No-Objection





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Letter is filed with this Tribunal, vide Additional Affidavit dated 29th day of November, 2022 and annexed to the said affidavit. Accordingly, the Meeting of the **Secured Creditors of the First Applicant Company is hereby dispensed with.**

13. The Learned Counsel for the Applicant Companies further submits that there are **Two Hundred and Fifty-Nine (259) Unsecured Creditors in the First Applicant Company** having outstanding value of Rs. 88,81,09,140/- as on June 30, 2022. Out of the total number of Unsecured Creditors, Three (3) Unsecured Creditors of Rs. 71,64,09,237/- constituting 80.67% of total Unsecured Creditors, has provided their **consent to the present Scheme in form of consent affidavit** which is filed vide Additional Affidavit dated 29th day of November, 2022 and annexed to the said affidavit. However, in Consonance with Section 230 (9) of the Companies Act, 2013, *“The Tribunal may dispense with calling of a meeting of creditor or class of creditors where such creditors or class of creditors, having at least ninety per cent. value, agree and confirm, by way of affidavit, to the scheme of compromise or arrangement”*. **Therefore, this Bench hereby directs the First Applicant Company to file consent affidavit of at least ninety per cent value of Unsecured Creditors at the time of filing of Company Petition.** Pursuant to the Merger of the Transferor Company with the Transferee Company, the inter Company balance shall stand cancelled and the Transferee Company, being a highly net worth positive company, undertakes to pay off the remaining Unsecured Creditors in the future as and when their dues arise. Further the First Applicant Company undertakes to serve notices to its remaining Unsecured Creditors through email/speed post/courier/hand delivery informing about the present proposed Scheme of Merger, with a direction that, if anyone desirous to oppose or object to the Scheme, then it shall file its objection within 30 days from the date of receipt of the notice. If no response is received, it will be presumed that they have no objection to the proposed Scheme.





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Accordingly, the **Meeting of the Unsecured Creditors of the First Applicant Company is hereby dispensed with.**

14. The Learned Counsel for the Applicant Companies submits for the **Second Applicant Company/ Transferee Company :**

- a. The equity share capital of the Second Applicant Company is listed on BSE Limited ("BSE") and National Stock Exchange of India Limited ("NSE"). Accordingly, its equity shares are (widely and publicly) traded on nation-wide terminals. The requirement of obtaining no-objection letters from stock exchange(s) is not applicable. Further, in accordance with the provisions of Regulation 37(6) of SEBI LODR, read with SEBI Circular No. CIR/CFD/CMD/4/2015 dated September 9, 2015 read with the circular dated March 10, 2017, bearing reference number CFD/DIL3/CIR/2017/21, the Transferee Company has provided adequate disclosures to the Stock Exchanges and the same is annexed to the Application.
- b. There are **Nil Secured Creditors in the Second Applicant Company** as on June 30, 2022 and there are **9607 (Nine Thousand Six Hundred and Seven) Unsecured Creditors in the Second Applicant Company** having outstanding value of Rs.13,06,20,76,089/- as on June 30, 2022. The **certificate stating Nil Secured Creditors** and verifying the list of Unsecured Creditors certified by the Chartered Accountant is annexed to this Company Scheme Application. **This Bench hereby directs the Second Applicant Company to issue notice** through Registered Post-AD/ Speed Post/ hand delivery and e-mail to its all Unsecured Creditors respectively and individually, as required under Section 230(3) of the Companies Act, 2013, with a direction that they may submit their representations or objection, if any, to the Tribunal and copy of such representations shall simultaneously should be served upon the





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Applicant Transferor Company and Applicant Transferee Company respectively. The Notice shall state that *“If no representation/ response is received by the Tribunal from Unsecured Creditor(s), within a period of thirty days from the date of receipt of such notice, it will be presumed that Unsecured Creditor(s) has no representation/ objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016”*.

- c. The existence of the Transferee Company will remain as before without any reorganization to its shareholding pattern;
 - d. No undertaking of the Transferee Company is being parted away or being disposed-off and hence provisions of Section 180 of the Companies Act, 2013 are also not applicable;
 - e. The net worth of the Transferee Company is highly positive i.e. 1,78,460.88 Lakhs as on 31st March, 2022. The assets of the Transferee Company are more than sufficient to discharge its liabilities, a net worth certificate showing highly positive net worth post-merger, certified by the Independent chartered Accountant in practice is annexed to this Company Scheme Application.
15. The First Applicant Company to serve notice along with the copy of Scheme upon – (1) the Central Government through the office of Regional Director (Western region), Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Official Liquidator, High Court Bombay (4) Income Tax Authority within whose jurisdiction the Transferor Company is assessed to tax bearing PAN number AABCD3162G, Income Tax Office Aayakar Bhavan, Maharshi Karve Road, Churchgate, Mumbai – 400020 and (5) Office of Goods and Service Tax Department bearing GSTIN: 27AABCD3162G1ZX and having jurisdiction at Commissionerate-Aurangabad, Division – Aurangabad Urban, Range-Range City-II, GST





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Bhavan, Opposite Railway Station, Aurangabad – 431005, pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

16. The Second Applicant Company to serve notice of the present Scheme of Merger by Absorption on – (1) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai; (2) Registrar of Companies, Maharashtra, Mumbai; (3) Income Tax Authority within whose jurisdiction the Transferee Company is assessed to tax bearing PAN number AAACB2484Q, Income Tax Office Aayakar Bhavan, Maharshi Karve Road, Churchgate, Mumbai – 400020 (4) Office of Goods and Service Tax Department bearing GSTIN: 27AAACB2484Q1Z8 and having jurisdiction at the Superintendent Range I, Division II, CGST & C.EX. Mumbai South Commissionerate, 1st floor, Meher Building, Bombay Garage, Dadi Seth Lane, Girgaon Chowpati, Mumbai 400007, (5) BSE; (6) NSE and (7) Securities Exchange and Board of India (“SEBI”), pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.
17. The Transferor Company is also directed to serve the Copy of Scheme upon Official Liquidator, High Court, Bombay pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The Tribunal is appointing M/s Chetan Shah & Co, Chartered Accountants, having address at: B-34/35, Chadha Apartments, 7th Floor, Teli Gully Cross Lane, Andheri (E), Mumbai-400069; having Email:





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chetanshahco@hotmail.com and having Contact number: 9820378900/9833878900, to assist the Official Liquidator to scrutinize books of Accounts of the Applicant Companies for the last five years on a remuneration of Rs. 3,00,000/-. The Notice shall state that "If no representation / response is received by the Tribunal from Official Liquidator, Bombay within a period of thirty days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation/ objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016"

18. The Applicant Companies shall host the notices along with a copy of the Scheme on their respective websites, if any.
19. That the Applicant Companies to file an Affidavit of Service of the directions given by the Tribunal in the Registry for service of notice to the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with. The Applicant Companies are also directed to include in the affidavit of service of proof of dispatch of documents sent to its creditors, wherever applicable.
20. Ordered accordingly.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

Kuldip Kumar Kareer
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 13/4/2023

[Signature]
Deputy Registrar 13/4/2023

National Company Law Tribunal Mumbai Bench
(D-5252) 13/4/2023