

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.201

C.P.(CAA)/24(AHM)2021 in CA(CAA) 87 of 2020

Order under Section 230-232 of Co. Act, 2013

IN THE MATTER OF:

Parag Sheth liquidator of Maxroth Impex Pvt Ltd

.....Applicant

Order delivered on . 15/03/2023

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in open Court vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

Dr. MADAN B. GOSAVI
MEMBER (JUDICIAL)

Rajeev Kr. Sen/Stenographer

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

**CP(CAA) No. 24 of 2021
CONNECTED WITH
CA(CAA) No. 87 of 2020**

[Petition under Sections 230-232 of the Companies Act, 2013]
AND

In the matter of Scheme of Arrangement in the nature of compromise and arrangement with the Secured and Unsecured Creditors of M/s. Maxroth Impex Private Limited (under liquidation) and reorganization of the share capital filed under Regulation 2B of the IBBI (Liquidation Process) Regulations, 2016

AND

In the matter of

Mr Parag Sheth
Liquidator of
M/s. Maxroth Impex Private Limited
(Under Liquidation)
Having its address at:
404, Sachet 2, Opp. GLS University,
Maradia Plaza, C. G. Road,
Ahmedabad, Gujarat- 380006.

....Applicant

In the matter of

[An application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016]

CP(IB) No. 161/9/NCLT/AHM/2018

M/s. Sound Buildcare Private Limited

....Operational Creditor

Versus

M/s. Maxroth Impex Private Limited

....Corporate Debtor

Appearance:

For the Applicant : Mr. Jaimin R. Dave, Ld. Adv

Order reserved on: 13.03.2023
Order pronounced on: 15.03.2023

Coram: DR. MADAN B. GOSAVI, MEMBER (JUDICIAL)
KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)

ORDER

1. The present Company Petition is filed by Mr. Parag Sheth - the Liquidator of M/s. Maxroth Impex Private Limited (under Liquidation) under Section 230-232 of the Companies Act, 2013 read with Rule 3 of the Companies (Companies, Arrangements and Amalgamation) Rules, 2016 (CAA Rules) and Regulation 2B of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”) seeking approval/sanctioning of the Scheme of Arrangement in the nature of compromise between the shareholders and secured and unsecured creditors of the Company under liquidation.

2. The averments made by the Learned Counsel for the Applicant/ Liquidator are summarized as under:

- i) The Company – M/s. Maxroth Impex Private Limited was admitted in CIRP on 12.09.2018 in an application i.e. CP(IB) 161 of 2018 filed by the Operational Creditor - M/s. Sound Build Care Private Limited under Section 9 of the IBC, 2016 wherein Mr. Parag Sheth was appointed to act as Interim Resolution Professional (“RIP”). The IRP constituted the Committee of Creditors (“CoC”) comprising of sole member i.e., Bank of Baroda, and held the meetings of CoC from time

to time. In spite of the publication of Form-G twice, the CoC did not receive any resolution plan worth to be accepted. Thereafter, the CoC in its 6th meeting dated 30.05.2019 by 97.54% votes resolved to initiate liquidation proceeding. This Adjudicating Authority vide its order dated 05.07.2019 in IA 347 of 2019 passed the order of liquidation of M/s. Maxroth Impex Pvt. Ltd.

- ii) The applicant filed IA No. 689 of 2020 for exclusion of the standstill period of 220 days and 66 days for nationwide lockdown due to the Covid-19 pandemic. This Adjudicating Authority vide its order dated 19.10.2020 granted the said exclusion of total 286 days (220 + 66 days).
- iii) Thereafter, the members of the suspended board filed IA No. 200 of 2020 in IA No. 347 of 2019 before this Adjudicating Authority with a prayer to stay the liquidation order and grant permission to file the objection in IA No. 347 of 2019.
- iv) The members of the suspended board also approached the Hon'ble NCLAT and filed Company Appeal (Insolvency) No. 779 of 2020. However, on 15.09.2020 the said Company Appeal was rejected with liberty to the suspended board to reach at a settlement within the ambit of Section 230 of the Companies Act, 2013.
- v) Pursuant thereto, on 10.10.2020, Mr. Hasmukh Nanalal Shah (the promoter shareholder/member of the Company) (under Liquidation) submitted a Scheme of Arrangement in the nature of compromise under Section 230 of the Companies Act, 2013. The said scheme was submitted within a period of one month from the date of the order

passed by the Hon'ble NCLAT in Company Appeal (Insolvency) No. 779 of 2020 on 15.09.2020.

- vi) Since the Company- M/s. Maxroth Impex Private Limited (under liquidation) is an MSME, Mr. Hasmukh Nanalal is eligible to submit a Scheme of Compromise and is not barred under Section 29A of the IBC, 2016.
- vii) The said scheme was placed by the Applicant before the Stakeholder's Consultation Committee in its 2nd meeting held on 15.10.2020 and consent of the sole Financial Creditor was accorded on 21.10.2020. In view whereof, a resolution in terms of Regulation 31A(9) of the Liquidation Regulations came to be passed authorizing the Applicant herein to move an application under Section 230 of the Companies Act, 2013 before this Tribunal.
- viii) Accordingly, the Applicant herein had preferred Company Scheme (first motion) Application being CA (CAA) No. 87 of 2020 seeking appropriate directions for holding and convening of the meetings of the Equity Shareholders, Secured Creditors, and Unsecured Creditors of the Company (under Liquidation).
- ix) This Tribunal vide order dated 20.01.2021 allowed the said Company Application and directed for holding and convening the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Company under Liquidation. This Tribunal has further directed the Applicant herein to serve notices to: (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of

Companies, Gujarat, and (iii) the concerned Income-tax authorities.

- x) In compliance with the order dated 20.01.2021 passed by this Tribunal, the Notice of the meeting indicating the day, date, place and time together with a copy of the Scheme pursuant to Section 102 of the Companies Act, 2013 read with Sections 230 to 232 of the Companies Act, 2013 and Rule 6 of the Companies (CAA) Rules, 2016 along with the prescribed form of proxy was sent individually via e-mail to all the Equity Shareholders and Secured Creditors on 23.01.2021 and to all the Unsecured Creditors of Company in liquidation on 24.01.2021. Further, the aforesaid notices were also dispatched via speed post to all the Equity Shareholders and Creditors on 23.01.2021. The notice of the meeting of the Equity Shareholders, Secured Creditors, and Unsecured Creditors of the Company (in liquidation) was also published on 25.01.2021. The Applicant has also served notice(s) of the meeting in Form No. CAA.3 to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, Gujarat and (iii) the concerned Income Tax Authority. The Applicant complied with the aforesaid directions of this Tribunal and filed an affidavit dated 18.02.2021 with respect to the service of Notice as well as the publication of notices in the newspapers by the Chairman of the meeting as directed by this Tribunal vide order dated 20.01.2021.
- xi) The aforesaid meetings were duly convened and held on 25.02.2021 and the Chairman has filed its report with regard to the result of the said meetings on 03.03.2021. It is submitted that certain clauses of the original Scheme of

Arrangement submitted before this Tribunal were proposed to be modified by Mr. Hasmukh N. Shah and the stakeholders have approved the scheme of compromise or arrangement with the requisite majority along with the modifications so proposed by Mr. Hasmukh N. Shah. A copy of the details of the Modification in comparison with the Scheme of Arrangement originally submitted before this Tribunal is also annexed with the petition.

- xii) The Equity Shareholders approved the proposed Scheme with modification by requisite majority of 100% in value and majority in number by casting their votes. The Secured Creditor of the Company in Liquidation approved the proposed Scheme with modification, with a reservation that the payment of expenses from 15.10.2020 till the implementation of the Scheme of arrangement should be borne by the Proposer, i.e., Mr. Hasmukh N. Shah, by a requisite majority of 100% in value and majority in number by casting valid votes at the meeting. The Unsecured Creditors of the Company in Liquidation approved the proposed Scheme with modification by a requisite majority of 96.55% votes of the total value of unsecured debt presented and casting valid votes at the meeting.

3. Thereafter, the Applicant herein had filed the second motion application bearing CP(CAA) 24 of 2021 before this Tribunal seeking sanction of the proposed Scheme along with modification, along with application bearing Comp. App. No. 26 of 2021 for condoning delay of 22 (*twenty-two*) days in filing the present application. The delay in filing the second motion application was condoned and the said application was allowed by this Tribunal on 22.06.2021.

4. This Tribunal by its order dated 22.06.2021 admitted this petition and directed for publication of notice of hearing in “Indian Express”, in English, Ahmedabad Edition and “Divya Bhaskar”, in Gujarati, Ahmedabad Edition not less than ten days before the date fixed for hearing, calling for objections, if any, on or before the date of hearing. This Tribunal also directed to issue notice to the Regional Director (“RD”), the Registrar of Companies (“RoC”), the Official Liquidator (“OL”) and the Income-tax Authority informing the date of the hearing.

5. Pursuant to the aforesaid order dated 22.06.2021 passed by this Tribunal, the Applicant herein filed an Affidavit on 30.07.2021 with this Tribunal submitting the proof of service of notice to the statutory authorities as well as the publication of notice in newspapers as directed by this Tribunal.

6. In response to the notices served upon the statutory authorities, the office of the RD has filed its representation on 25.06.2021 wherein the RD has made some observations along with the report of the RoC. The details of the observations of the said statutory authorities and the response of the Applicant are as under:

- (a) In paragraph 2 (c), the RD has observed that the payment schedule to the secured creditor mentioned in the part -II(A) of the scheme and most of the date for payment to the secured creditor has been gone. Therefore, the RD is not aware as to whether the payment to the secured creditor has been made or not, according to the payment schedule.

However, in response to the said observation, the Applicant in his reply dated 02.11.2022 has stated that the proposer of the Scheme has undertaken to make the entire payment within 90

(ninety) days from the date of order of the approval of this scheme.

- (b) In paragraph 2 (d), the RD observed that in the proposed Scheme, the dues of the other unsecured creditors as on the cutoff date of Rs. 29.20 lakhs shall be reduced by 80% and the balance amount shall be paid in full and final settlement within 90 days from the date of the Scheme becomes effective. However, it is not clear how and why the payment to unsecured creditors has been reduced by 80% which may be detrimental to the interest of unsecured creditors.

In response to the said observation, the Applicant in his reply dated 02.11.2022 has stated that the said Scheme is approved by all the creditors and shareholders unanimously. That during the meeting of the unsecured creditors, the said Scheme was read out and explained along with the modifications as proposed by the Shareholder of the Company (under Liquidation) namely, Mr. Hasmukh N. Shah. Thereafter, the Scheme was approved by the requisite majority of unsecured creditors. It is further stated that out of 8 *(eight)* unsecured creditors present and voting, 6 *(six)* unsecured creditors representing 96.55% of the total value of unsecured debt, casted their vote in favour, thereby approved the said Scheme along with modifications.

- (c) In paragraph 2 (e), the RD observed that the Scheme is silent about the status of existing employees/ workers of the company and their employment after running the company as a going concern.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that in accordance with Section 33(7) of the Code, the existing employees of the Company under Liquidation have been discharged and their employment is terminated by operation of law. It is submitted that the company will be managed as a going concern by recruiting new employees/workers.

- (d) In paragraph 2 (f) (Part – A) (1 & 2), the RD has observed that the Company (in Liquidation) has failed to file the Statement of deposit in e-form DPT-4 as per the requirement of Section 74(1)(a) of the Companies Act, 2013 and the Company (in Liquidation) has failed to repay the loan/ deposit accepted prior to commencement of Companies Act, 2013 as per the requirement of Section 74(1)(b) of the Companies Act, 2013. Hence, the office of the RD has been issuing notices in these regards.

In response to the said observations, the Applicant herein in his reply dated 02.11.2022 has stated that the Liquidator of the Company under Liquidation cannot be held responsible for the defaults committed by the Directors/Authorized Representatives of the Company under Liquidation prior to the commencement of CIRP/ Liquidation. In fact, according to General Circular No. 4 of 2020 dated 17.02.2020 and General Circular No. 8 of 2020 dated 06.03.2020, IRP/ RP/ Liquidator is responsible for filing of forms after commencement of CIRP. Under the circumstances, the non-filing of the statement of deposit in DPT-4 as per the requirement of Section 74(1)(a) of the Companies Act, 2013 cannot be attributed to the Applicant. Similarly, non-payment of the deposit as per the requirement of

Section 74(1)(b) of the Companies Act, 2013 is not attributable to the Applicant.

- (e) In paragraph 2 (f) (Part – A) (3 & 4), the RD has observed that in the Financial Statement/Balance Sheet as on 31.03.2018 the Auditors has given qualified remarks with regards to granting of interest, free unsecured loans to parties covered under Section 189 of the Companies Act, 2013, defaulting in repayment of dues to Bank(s), thereby, non-availability of the exemption available to Private Limited Companies under MCA Notification dated 05.06.2016 as well as with regards to deposits received from the public. The Company (under Liquidation) has violated the provisions of Section 186(7) read with Section 189 and Sections 73 to 76 of the Companies Act, 2013.

In response to the said observations, the Applicant in his reply dated 02.11.2022 has stated that the notices issued to the Directors for alleged violation of Sections 73 to 76 and Section 186(7) read with Section 189 of the Companies Act, 2013 are not germane to the present proceedings in any manner. It is reiterated that the Liquidator–Applicant is responsible for the affairs of the Company (under Liquidation) after the commencement of Liquidation. In other words, the Liquidator–Applicant cannot be held liable for past defaults of the Company/ Directors or Authorized Officers. Furthermore, according to General Circular No. 4 of 2020 dated 17.02.2020 and General Circular No. 8 of 2020 dated 06.03.2020, IRP/ RP/ Liquidator is responsible for filing of forms after the commencement of CIRP/Liquidation as the case may be. Under the circumstances, the Applicant cannot be made responsible for alleged non-compliance of Sections 73 to 76 and Section

186(7) read with Section 189 of the Companies Act, 2013 in any manner whatsoever.

- (f) In paragraph 2 (f) (Part – A) (5), the RD has observed that the MGT-7/Annual Return filed by the RP/Liquidator of the Company attached with GNL-2 for the year ended on 31.03.2019 & 31.03.2020 has not been certified by Company Secretary in practice as per the requirement of Ministry's General Circular No. 04/2020 dated 17.02.2020.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has undertaken to file a Company Secretary-certified copy of MGT-7/Annual Return filed by the RP/Liquidator of the Company attached with GNL-2 for the year ended on 31.03.2019 & 31.03.2020 as per the requirement of Ministry's General Circular No. 04 of 2020 dated 17.02.2020.

- (g) In paragraph 2 (f) (Part – B) and (Part – B) (1), the RD has *prima facie* observed that the Scheme is against the interest of majority stakeholders, against the interest of workers, also Revenues interest of Central Government and State Government is not taken care of.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that the scheme of arrangement in the nature of compromise is approved by the requisite majority of shareholders and creditors. Hence, the Scheme is not against the interest of the stakeholders,. The scheme of arrangement in the nature of compromise will revive the Company under Liquidation and save it from corporate death.

- (h) In paragraph 2 (f) (Part – B) (2), the RD has observed that the Applicant has not submitted proper details of unsecured creditors as in the proposed scheme the dues of the other unsecured creditors as on the cutoff date of Rs. 29.20 lakhs shall be reduced by 80% and the balance amount shall be paid in full and final settlement within 90 days from the date of the scheme becomes effective. Balance 80% of the outstanding amount shall be written off.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that the said scheme is approved by all the creditors and shareholders unanimously. That during the meeting of the unsecured creditors, the said scheme was read out and explained along with the modifications as proposed by the Shareholder of the Company under Liquidation, namely, Mr. Hasmukh N. Shah. Thereafter, the scheme was approved by the requisite majority of unsecured creditors. It is further stated that out of 8 (eight) unsecured creditors, 6 (six) unsecured creditors representing 96.55% of the total value of unsecured debt, casted their vote in favour, thereby, approved the said scheme along with modifications.

- (i) In paragraph 2 (f) (Part – B) (3), the RD has observed that the Applicant herein should be directed to invite claims of all classes of creditors through newspaper advertisement and after receiving of such claims may be adjudicated on the basis of entitlement and the report of Chartered Accountant may also be filed before this Tribunal for record/consideration.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that the present scheme of compromise provides for repayments of debts of all secured and

unsecured creditors of the Company (under Liquidation) to the extent of the amount specified therein. The Liquidator–Applicant made a public announcement to invite claims of all classes of creditors on 12.02.2020 through newspapers and determined their claims. Furthermore, in compliance with the order dated 22.06.2021, Liquidator–Applicant has published an advertisement in 2 (two) newspapers viz. “Indian Express” and “Divya Bhaskar”, Ahmedabad Edition on 06.07.2021. The Liquidator – Applicant has filed an affidavit of publication and service dated 29.07.2021 on 30.07.2021. Pursuant to which, no one has submitted any objection to the said scheme before the Company or before this Tribunal. Therefore, the report of the Chartered Accountant for quantification and entitlement of all creditors is not required since the scheme is approved by the requisite statutory majority of Shareholders and Creditors.

- (j) In paragraph 2 (f) (Part – B) (4), the RD has observed that the Applicant has not furnished details regarding the technical feasibility and financial viability of the Scheme. Therefore, for the purpose of understanding the success of the Scheme, the Applicant may be directed to submit an expert opinion in this regard.

In response to the said observation, the Applicant in his reply dated 02.11.2022 has stated that the shareholders and the creditors of the Company under Liquidation, after examining the technical and financial viability of the Scheme have approved the scheme with the requisite majority.

- (k) In paragraph 2 (f) (Part – B) (5), the RD has observed that the MCA vide circular No. 08/2020 dated 06.03.2020 has notified certain provisions regarding the filing of documents as required

under the Companies Act, 2013 which have been not complied by IRP/ RP/Liquidator.

In response to the said observation, the Applicant in his reply dated 02.11.2022 has stated that according to General Circular No. 08/2020 issued by the Ministry of Corporate Affairs, the Applicant herein is under an obligation to file e-forms on the MCA website for all the activities carried out post CIRP or Liquidation, as the case may be. In the present case, CIRP commenced on 12.09.2018 and the Applicant herein has complied with General Circular No. 08/2020 issued by the Ministry of Corporate Affairs and uploaded all the relevant forms. Furthermore, the Applicant undertakes to comply with the General Circular No. 08/2020 in case where the RD indicates any non-compliance.

- (l) In paragraph 2 (f) (Part – B) (6), the RD has sought directions from this Tribunal that the Applicant may be directed to file Audited half yearly Accounts and Annual Accounts of the Company (under Liquidation) during such time the Company remain under CIRP and he may also be directed to preserve the books and accounts of the Company (under Liquidation) and relevant record for five years or such more years as may be directed, in the public interest.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has undertaken that the Company (under Liquidation) shall preserve the books and accounts of the Company (under Liquidation) and relevant record for the duration of five years or such number of years as may be directed by this Tribunal.

(m) In paragraph 2 (f) (Part – B) (7 & 8), the RD has sought directions from this Tribunal that the Applicant may submit details of income/interest income out of FD/ out of parking of residual funds & interest income earned by the Liquidator/IRP/RP and details of all transactions where GST is applicable by virtue of his assignment during which the Company (under Liquidation) was under the possession of IRP/RP and he may be directed to pay applicable Income Tax and Goods and Service Tax as per applicable laws.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that the Liquidator–Applicant has not earned any interest income out of FD/ parking of residual funds. In any case, the Income Tax Department or GST Department has not raised any objection against the said scheme. Further, the Applicant has undertaken to comply with all the provisions of the Income Tax Act, 1961, and Goods and Service Tax Act, 2017 including payment of Income Tax and/or GST, if applicable.

(n) In paragraph 2 (f) (Part – B) (9), the RD has observed that as per the Scheme, the Liquidator is duty-bound to pay applicable tax on Long Term Capital Gain on the transfer/sell of any assets of the Company. It is observed that there appears that there may be an element of transfer/sell-off assets that may attract payment of Capital Gain Tax as there is no provision in the scheme regarding the remittance of Capital Gain Tax which is silent about the same.

In response to the said observation, it is submitted by the Applicant in his reply dated 02.11.2022 that a copy of the Scheme and notice of hearing is served on the Income Tax

Department on 06.07.2021 and an affidavit of publication and service dated 29.07.2021 is filed before this Tribunal on 30.07.2021. Furthermore, there is no element of transfer of assets which involves payment of long-term capital gain tax in the present case. However, without prejudice to the above, the Liquidator–Applicant has undertaken to comply with all the provisions of the Income Tax Act, 1961 including payment of income tax, if applicable.

- (o) In paragraph 2 (f) (Part – B) (10), the RD has sought directions from this Tribunal that the Applicant shall place the fact on record the outcomes of the meeting of various classes of creditors, and in case of any dissent, such stakeholders may be made party in the matter.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that the Liquidator–Applicant has already filed the Chairman’s report disclosing the outcome of meetings of various classes of creditors.

- (p) In paragraph 2 (f) (Part – B) (11), the RD has observed that as per the scheme, the Liquidator is duty-bound to transfer all the assets of the Company to the Applicant. It is further observed that there appears that there may be an element of transfer of assets which may attract payment of stamp duty as there is no provision in the scheme regarding the remittance of Stamp duty which is silent about the same.

In response to the said observation, it is clarified by the Applicant in his reply dated 02.11.2022 that there is no element of transfer of assets which involves payment of stamp duty. However, without prejudice to the above, the Liquidator–

Applicant has undertaken to comply with all the provisions of the Gujarat Stamp Act in case where stamp duty is payable.

- (q) In paragraph 2 (f) (Part – B) (13), the RD has sought direction from this Tribunal regarding Lock in period against sell of assets of the Company (under Liquidation) and 100% set-off of liabilities in the matter.

In response to the said observation, the Applicant herein in his reply dated 02.11.2022 has stated that no direction regarding lock in period against the sale of assets of the Company (under Liquidation) and 100% set-off of liabilities in the matter is required to be passed in view of the fact that scheme is approved by the requisite majority of shareholders and creditors.

- (r) In paragraph 2 (f) (Part – B) (14 & 15), the RD has sought directions from this Tribunal to appoint an observer/Nominee Director in new constituted board to oversee the smooth implementation of the Scheme of Arrangement in the Company (under Liquidation) and has also sought direction for obtaining compliance report from Chartered Accountant regarding quantification, entitlement and Settlement of dues of all class of creditors in the matter.

In response to the said observations, the Applicant herein in his reply dated 02.11.2022 has stated that there is no need for the appointment of an observer/nominee director on the newly constituted board to oversee the smooth implementation of the scheme of arrangement in the company (in liquidation). It is further submitted that the Chartered Accountant certificate with regard to quantification and entitlement of all classes of creditors

is not required once the scheme is approved by the majority of shareholders and creditors.

- (s) In paragraph 2 (f) (Part – B) (16), the RD has observed that the Liquidator has not filed the application in the prescribed e-form GNL-1 under the MCA 21 portal as per the requirement of Section 398 and Section 230-232 of the Companies Act, 2013 read with Rule 7 of Companies (Registration Office and Fees) Rules, 2014.

In response to the said observations, the Applicant herein in his reply dated 02.11.2022 has stated that the Liquidator–Applicant has filed the application in prescribed form GNL-1 under MCA 21 portal as required under Section 398 and Section 230–232 of the Companies Act, 2013 read with Rule 7 of Companies (Registration Office and Fees) Rules, 2014.

It is further stated that violation of provisions of the Companies Act, 2013 by the Company (in liquidation) or its ex-directors would not be germane for the purpose of approving the present said scheme of compromise more particularly when the scheme is approved by the requisite statutory majority of shareholder/stakeholders and creditors.

- (t) The Registrar of Companies (“**RoC**”) in its report has raised the same observations as raised by the RD in his observations.

7. The Official Liquidator (“**OL**”) filed his observations on 04.01.2022 wherein the OL has not made any adverse observations. In fact, the OL has submitted a report of an independent Chartered Accountant/ appointed scrutinizer, which suggests that the affairs of the Company (under Liquidation) have not been conducted in a manner prejudicial to

the interest of its members or to the public interest. However, the OL has prayed from this Tribunal to direct the Company (under Liquidation) to ensure statutory compliance of all applicable laws.

In response to the said observation, the Applicant herein, in his Additional Affidavit dated 02.11.2022, has already undertaken to comply with all the applicable laws for the time being in force.

8. In response to the notices served upon the Statutory Authorities, the Income Tax Department on 26.06.2022 uploaded one letter dated 23.06.2022 indicating that there is an outstanding demand of Rs. 1,27,964/- against the Company (under Liquidation) having PAN: AAACP9242J.

However, no representation was filed by the Applicant. In this regard, the Income Tax Department is entitled to file its claim before the liquidator which may be considered as per the provisions of the IBC, 2016.

9. It is further submitted that the present Scheme of Arrangement provides for repayments of debts of all the secured and unsecured creditors of the company to the extent of the amount specified in the proposed scheme. The present scheme aims to keep the Company (under Liquidation) as a going concern by paying off the debts of the creditors of the company. The scheme will neither prejudicially affect anyone nor public interest in any manner. In case the present petition is not allowed, the company will be liquidated. There are bright chances of revival of the Company (under Liquidation) in case of approval of the present scheme of arrangement in the nature of compromise.

10. We have heard Learned Counsel Mr. Jaimin Dave for the Liquidator/Applicant and have also gone through the records and the additional affidavit dated 02.11.2022. It is noted that the proposed

Scheme is preferred by Mr. Hasmukh N. Shah - the erstwhile promoter/shareholder/member of the Company (under Liquidation). The Equity Shareholders, Secured Creditors, and Unsecured Creditors (by majority of 80.99%) have given their consent for the proposed Scheme of Arrangement in the nature of compromise and arrangement.

11. The proposer of the scheme has proposed to pay as under:

- (i) It is noted that there is only one Secured Creditor *viz.* Bank of Baroda who has already agreed to accept the one-time settlement of its dues at Rs. 455 Lakhs, out of which the promoters/ their relatives/ relative's company has already paid an amount of Rs. 110.50 Lakhs and the balance amount of principal of Rs. 344.50 lakhs along with interest @ 9% which works out to Rs. 23.30 Lakhs making the total amount of Rs. 367.80 Lakhs shall be repaid to them in different tranches.
- (ii) Further, an amount of Rs. 109.84 Lakhs has been given by one, M/s. Semitrone Conchem Private Limited by way of Inter Corporate Deposits ("**ICD**"), post CIRP period which has been paid to BOB towards their dues. The said M/s. Semitrone Conchem Private Limited shall be paid in full in 5 years after the complete repayment to BoB with interest at the rate of 6% per annum or shall be converted to Equity shares/ Redeemable Preference Shares, as may be decided mutually.
- (iii) It is further noted that the dues of the other unsecured creditors/loan are of Rs. 58.48 Lakhs which are written off by 80% and the balance amount of 20% i.e., Rs. 11.70 Lakhs shall be paid in full and final settlement within 90 (ninety) days from the date of approval of the scheme.
- (iv) The CIRP cost, Liquidation cost as well as security expenses are agreed to be borne by the proposer of the scheme on an

the actual basis immediately upon approval of the scheme by this Hon'ble Tribunal.

12. On the issue of payment to the unsecured creditors and reduction of their dues by 80%, a clarification was sought vide order dated 06.03.2023. In the context, it has been explained that there were total 17 unsecured creditors including unsecured loans, inter corporate deposit and other unsecured creditors having total value of Rs. 1,68,31,795/-, as on 30.09.2020 as per certificate of the Chartered Accountants; and out of those 17 unsecured creditors, 8 unsecured creditors having value of Rs. 1,36,31,438/- had chosen to attend the meeting held on 25.02.2021 for considering and if thought fit, to approve the proposed scheme with or without modifications. It has been further submitted that out of those 8 unsecured creditors present and voting, 6 unsecured creditors representing 80.99% of total unsecured debt and 96.55% of the present and voting unsecured debt casted their votes in favour, thereby approved the proposed scheme along with the modifications. It is noted from the details placed on record that the unsecured debt also included the inter corporate deposit of Rs. 1,09,83,575/-. As per the scheme, no reduction is proposed thereof. The proposed reduction of 80% relates to the balance amount of Rs. 58.48 lakhs (29.29 lakhs unsecured loans + 29.19 lakhs other unsecured creditors). Four persons of this category (out of 58.48 lakhs) with a debt value of Rs. 21.64 lakhs had given their assent in the meeting and that amounted to only 37% within that category. Though the overall percentage of the persons in the category of unsecured loan, who had given assent to the scheme amounts to 80.99%, the assent to the scheme given by Semitrone Conchem Private Limited, who had given ICD of Rs. 1.09 crore cannot be considered in the category of other loans and unsecured creditors for whom reduction of 80% has been proposed as no such reduction has been proposed in respect of that ICD. It is noted that the scheme has been brought in the liquidation proceedings under Regulation 2B and in the event of liquidation otherwise, these

unsecured creditors may not get their entire dues paid as per the waterfall mechanism under section 53 of the IBC, 2016. Nevertheless, all such unsecured creditors who had either dissented and/or were absent in the meeting, will have right to approach the liquidator and/or this Tribunal as regards to their claim, if they do not accept the proposed reduction of 80% as against their dues.

On the basis of above the facts and submissions made by the Learned Counsel and by considering the entire facts and circumstances of the aforesaid company petition and on perusal of the Scheme and the proceedings, it appears that the requirements of the provisions of section 230 and 232 are satisfied by the petitioner company. We are of the view that the proposed Scheme of Arrangement is *bona fide* and is in the interest of the shareholders and creditors. The proposed scheme revives the Company (under Liquidation), which is the main object of the Insolvency and Bankruptcy Code, 2016. In view of this, Company Petition No. CP (CAA) 24 of 2021 is allowed. The Scheme envisaging in the nature of compromise and arrangement with the Secured and Unsecured Creditors of M/s. Maxroth Impex Pvt. Ltd., is hereby sanctioned. It is declared that the sanctioned scheme shall be binding on the Petitioner Company and its shareholders, creditors and all concerned under the Scheme subject to our observations made as regards to the dissenting unsecured creditors hereinabove.

13. Notwithstanding the above, if there is any deficiency found or violation committed *qua* any enactment, statutory rule or regulation, the sanction granted by this Hon'ble Tribunal to the scheme will not come in the way of action being taken, albeit, in accordance with the law, against the concerned persons, directors and officials of the Petitioner.

14. While approving the Scheme as above, we further clarify that this order should not be construed as an order granting any exemption from

payment of stamp duty, taxes including income-tax, GST, etc., or any other charges, if any, and payment in accordance with law or in respect of any permission/ compliance with any other requirement which may be specifically required under any law.

15. In view of the above, we allow the present petition, with the following directions:

ORDER

- (i) The Scheme of Arrangement in the nature of Compromise along with modifications as annexed herewith as **“ANNEXURE – A”** read with **“ANNEXURE – B”** is hereby sanctioned and it is declared that the same shall be binding upon the Company under Liquidation – Maxroth Impex Private Limited (in Liquidation), its Shareholders and Creditors and all concerned under the Scheme.
- (ii) We direct the Applicant/Liquidator to comply with the observation made by the Official Liquidator.
- (iii) It is also made clear that the protection available under Section 32A of the Insolvency and Bankruptcy Code, 2016 shall be available to the Company as well as to the new management to the extent as applicable thereunder.
- (iv) As the composite scheme is sanctioned, the liquidation proceedings against M/s. Maxroth Impex Private Limited (*in Liquidation*) stands closed.
- (v) The legal fees/ expenses of the office of the Regional Director are quantified at Rs. 10,000/-. The said fees to the Regional Director shall be paid by the Company.
- (vi) The legal fees/ expenses of the office of the Official Liquidator are quantified at Rs. 10,000/-. The said fees to the Official Liquidator shall be paid by the Company.

(vii) Filing and issuance of drawn-up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Hon'ble Tribunal. The Registrar of this Hon'ble Tribunal shall issue the certified copy of this order along with the Scheme immediately.

(viii) The Company is further directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with INC – 28 in addition to a physical copy as per relevant provisions of the Act.

16. Accordingly, the Company Petition CP (CAA) No. 24 of 2021 connected with CA (CAA) No. 87 of 2020 stands disposed of.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

DR. MADAN B GOSAVI
MEMBER (JUDICIAL)

Rajeev Kr. Sen/Stenographer

Annexure - ④

COMPOSITE SCHEME OF COMPROMISE AND ARRANGEMENT

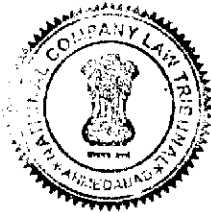
BETWEEN

HASMUKH N SHAH

**PROMOTER SHAREHOLDER/MEMBER OF MAXROTH IMPEX
PRIVATE LIMITED (IN LIQUIDATION)**

AND

**THE CREDITORS AND SHAREHOLDERS OF MAXROTH IMPEX
PRIVATE LIMITED (IN LIQUIDATION)**



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PREAMBLE**(A) Purpose of the Scheme:**

This composite Scheme of Compromise and Arrangement (hereinafter referred to as "the Scheme") proposed by Mr. Hasmukh Nanalal Shah, promote Shareholder/Member of Maxroth Impex Private Limited hereinafter referred to as "the Applicant") provides for compromise by (i) the Secured Creditors, (ii) the Unsecured Creditors and (iii) the Equity Shareholders under provisions of Section 230 to 232 and other relevant provisions of the Companies Act, 2013 in the manner provided for herein.

- (B) The Scheme also provides for various other matters consequential or otherwise integrally connected herewith.

BACKGROUND AND RATIONALE FOR THE SCHEME:

1. Maxroth Impex Private Limited (the company) is mainly engaged in manufacturing and marketing of spices in India and abroad and is having name and fame in the UAE market, due to its premium quality of goods and customer services and thus enjoys a decent credibility among its customers and its suppliers.
2. The Present Capital Structure of the company is as under:

Authorized Capital	
1,20,000 Equity Shares of Rs.10/- each	Rs.12,00,000/-
Issued and paid up Share capital	
1,11,700 Equity Shares of Rs.10/- each	Rs.11,17,000/-



The shares of the company are not listed on any of the stock exchanges considering the fact that the company is a Private Limited Company and major shareholders of the company are as under:

Name of the shareholder	No. of equity shares held	Percentage of shares held
Hasmukh N Shah	77,200	69.11%
Mukesh R Shah	25,500	22.83%
Santhaben R Shah	2,000	1.79%
Laxmiben H Shah	2,000	1.79%
Meenaben J Shah	2,000	1.79%
Renukaben R Shah	2,000	1.79%
Manjuben J Shah	1,000	0.90%
Total	1,11,700	100.00%

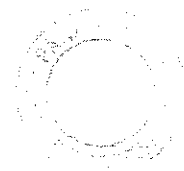
3. The summarized financial performance of the company for the last five years is as under:

(Rs. In Lakhs)

Particulars	FY 2017-18 (Audited)	FY 2018-19 (Audited)	FY 2019-20 (Prov.)	FY 2020-21 (6 months up to September 30) (Prov.)
Revenue from operations	211.12	11.63	0.90	--
PBDIT	(341.09)	(38.01)	(152.03)	--
Interest	10.10	16.27	44.50	--
Depreciation	1.20	0.87	0.65	0.33
PBT	(352.39)	(55.15)	(197.18)	(0.33)
Tax	0.21	0.14	--	--
PAT	(352.60)	(55.29)	(197.18)	(0.33)
Share capital	11.17	11.17	11.17	11.17
Reserves & surplus	(197.81)	(253.10)	(426.94)	(427.27)



19/11/2021



The company has suffered a lot due to various external factors such as bankruptcy of one of the largest customers to whom the company was exporting its goods at USA and due to which sizeable fund was blocked. This has created a dual fact that debtors of sizeable amount could not be recovered and the entire working capital cycle was blocked. Again, during FY 2015-16 and 2016-17 there was a lot of fluctuation in the market due to the speculative factors and because of which the effective cost of procurement was higher in some instances than the effective sales realization and accordingly the company had incurred losses.

As a result the company has to approach its main lender viz. Bank of Baroda with a request to enter into one time settlement of dues. The company has also been facing threats of few notices including winding up notices.

4. In the meantime, the company has also received a notice from one of the suppliers viz. Sound Build Care Private Limited u/s 9 of the IBC Code, 2016 for payment of its dues and the promoters of the company has requested for some time for making payment considering the severe liquidity crunch faced by it. The promoters had clearly stated to them that they are unable to make payment to the secured lenders towards their dues on time and the company's account has become sub-standard in the books of the bank and therefore the promoters have requested for some time to make the payment. However, the operational creditor has not agreed for allowing time and accordingly Hon'ble NCLT, Ahmedabad, has admitted the operational creditor's petition against the company vide its order dated 12.09.2018 in the Company petition No. C.P.(I.B.) No. 161/9/NCLT/AHM/ 2018 filed by the operational creditor.
5. Mr. Parag Sheth was appointed as Interim Resolution Professional (IRP) and he was later confirmed and appointed as Resolution Professional (RP) by the Committee of Creditors (COC).



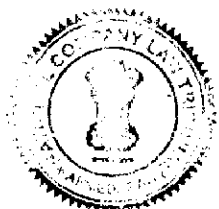
6. On 18th January, 2019 in terms of Section 25(2)(h) of the IBC a notice was published in the leading national daily inviting Expression of Interest from public for submission of the resolution plan for the corporate debtor with the cutoff date of 1st February, 2019 for obtaining details and Information Memorandum from the resolution professional. Mr. Parag Sheth, the resolution professional, has received only one bid along with EOI from Semitrone Conchem Private Limited and later on it has also submitted its resolution plan along with necessary deposit to the resolution professional.
7. Meanwhile the resolution professional convened several meetings of the COC and viable option for revival of the company was discussed among the COC member. Based on such discussions and confirmation of the COC, the resolution plan submitted by Semitrone Conchem Private Limited along with Omkara Assets Reconstruction Company Limited on 6th June, 2019 was under consideration by the only member of the COC i.e. Bank of Baroda.
8. The promoters have submitted a composite one time settlement request to Bank of Baroda (BOB) for the corporate debtor as well as their associate concern viz. Maxroth Chemicals which was accepted by BOB vide its letter dated 22nd July, 2019 and accordingly the promoters have also paid an amount of Rs. 110.50 Lakhs to BOB against the said OTS of the Company till date.
9. In light of the one time settlement letter submitted by the promoters and accepted by BOB, the resolution plan submitted by Semitrone Conchem Private Limited along with Omkara Assets Reconstruction Pvt. Ltd. was required to be accepted by COC but it seems that due to the clash of timing between the acceptance of OTS by BOB and final date of acceptance of resolution plan by COC i.e. BOB (the only member of the COC), COC could not take any decision and ultimately the resolution plan submitted by Semitrone Conchem Private Limited along with Omkara Assets Reconstruction Pvt. Ltd. Was not accepted & resulted into the application of liquidation by the resolution professional viz. Mr. Parag Sheth.



10. It is pertinent to mention that during the CIRP process, the company has been operating as a going concern. However, since no resolution plan was approved by COC in the CIRP timeline, the Hon'ble NCLT ordered for liquidation of the company vide its order dated 5th July, 2019. In the present case the liquidation order was the outcome of legal compulsion under IBC being a time bound process and a result of the provisions of the code leading to no resolution for the revival of the company.
11. As a result of the Provisions of the Code:
- a) Though the promoters have entered into one time settlement scheme, with the only member of the COC viz. BOB, the revival plan of a viable company could not be taken up.
 - b) The resolution for revival of the company which was under consideration by COC could not be approved.
 - c) The valuable working and the time invested by COC member of about 8 months to draw a viable resolution plan for revival of the company vis-à-vis recovery of debts become futile and invalid.

Hence, the company was compulsorily put to liquidation under the process of law.

12. Whereas the liquidation of the company would have the following impact:
- a) Loss of employment of people employed by the company.
 - b) Loss of livelihood of their families indirectly associated with the company through its transporters, security agencies, dealers, vendors, etc.



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- c) Subversion of the eco system around an operational company i.e. loss of livelihood that has developed around the plants through various shops, job works, etc. providing daily blow to the rural populace of the village in which the plant operates.
 - d) Loss of value of shareholders.
 - e) Liquidation will lead to loss of value of the stake held by the secured lender.
 - f) Loss of creative value potential of the assets.
 - g) Loss of economic value or productive plant and machinery.
 - h) Negligible value to be recovered when the plants get sold as scrap brick by brick – financial loss to lenders and investors.
 - i) Loss to the exchequer in terms of GST, custom duty, income tax, etc.
 - j) Liquidation of the company will be against the spirit of "Make in India".
13. Considering the above, the promoters have filed an application against the order of the Hon'ble NCLT dated 5th July, 2019 before the Hon'ble National Company Law Appellate Tribunal (NCLAT) and as per the order of the Hon'ble NCLAT dated 15.09.2020, in the appeal filed by the promoters in the Company Application No. Com.AP(AT)/Insolvency/No.779 of 2020, the Hon'ble NCLAT has given a liberty to the appellant (Hasmukh N Shah) to apply for an arrangement/scheme for seeking settlement within one month.
14. Whereas the present scheme upon its approval and implementation, has following benefits to all stakeholders:



a) **Secured creditors:**

- i) NPV of aggregate bank repayments under the scheme shall be greater than the expected recovery under liquidation.
- ii) Certainty and timeline of repayment is defined in the scheme which is totally uncertain in case of liquidation.
- iii) Substantial financial loss to the lenders can be avoided as negligible value can be recovered by them when assets are sold as scrap brick by brick under the liquidation process.
- iv) No additional funding from exiting lenders.
- v) No moratorium.

b) **Inter-corporate depositors:**

The inter-corporate deposit given by one of the associate's viz. Semitrone Conchem Private Limited, post CIRP period mainly for repayment towards OTS of Secured Creditor of Corporate Debtor, shall be able to recover their money in full after the repayment to the bank.

c) **Unsecured Creditors:**

- i) The unsecured creditors will be able to recover a portion of their dues in terms of the scheme as compared to the nil recovery in the event of liquidation.
- ii) Continued contribution to the government and payment of statutory dues in terms of the scheme.
- iii) Continuity of employment and payments to workmen and employees in normal course of the business.



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d) **Shareholders:**

All the equity shareholders to benefit from the revival of the business and appreciation of the company's valuation in future, as against zero value in case of liquidation.

e) **Company's operations:**

- i) The company to continue as going concern. This will help keep direct employment.
- ii) Revival of the company will increase the economic value of productive plant and machinery and at the same will generate future employment.
- iii) The livelihood of families indirectly associated with the company through its transporters, security agencies, dealers, vendors, etc. will be safeguarded.
- iv) No loss to exchequer in terms of GST, customs duty, income tax, etc.

PARTS OF THE SCHEME:

The Scheme is divided into the following parts :

- PART I: details with the Definitions and Share Capital
PART II: details with Compromise and Arrangement with Creditors
PART III: details with the General Terms and Creditors



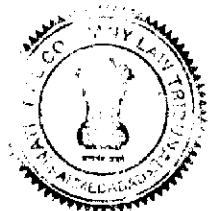
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PART - I DEFINITIONS AND SHARE CAPITAL

1. DEFINITIONS

In this Composite Scheme of Compromise and Arrangement (as defined hereunder) unless inconsistent with the subject or context, the following expressions shall have the following meaning:

- 1.1 **"The Company"** means Maxroth Impex Private Limited (in liquidation), a company incorporated under the provisions of the Companies Act, 1956/2013 having its registered office at 2nd Floor, Neelmani Chambers, B/h. Sales India, Ashram Road, Ahmedabad.
- 1.2 **"Act"** means the Companies Act, 2013, or any statutory modifications, or re-enactment thereof for the time being in force.
- 1.3 **"Appointed Date" or "Cut-off Date"** means 15th October, 2020.
- 1.4 **"Board"** means the board of directors of the Company or any Committee thereof.
- 1.5 **"Claims"** means dues of the Creditors as 15th October, 2020 as admitted by the Resolution Professional (RP).
- 1.6 **"Tribunal or NCLT"** means the National Company Law Tribunal, Ahmedabad Bench.
- 1.7 **"Creditors"** means all the secured and unsecured creditors of the Company.
- 1.8 **"Effective Date"** means the date on which the certified copy of the order of the Hon'ble Tribunal sanctioning this Scheme is filed with the Registrar of Companies, Gujarat.



- 1.9 "Secured Creditors" means BOB lent Secured Financial Assistance to the Company secured by charge over the Assets of the Company.
- 1.10 "Scheme" means this Composite Scheme of Compromise and Arrangement in its present form or with any modification(s) as may be approved by the Creditors and approved or imposed or directed by the Tribunal.
- 1.11 "Unsecured Creditors" means all the operational creditors of the Company and the creditors related to the day to day operations of the Company as on the appointed date and also include unsecured financial creditors.
- 1.12 "Inter Corporate Deposit" means amount of Deposit paid by Associate Company viz. Semitrone Conchem Pvt. Ltd. For repayment of OTS amount to Secured Creditor of the company Post CIRP period.
- 1.13 "Waiver" means the waiver of the right of the creditors of claims of any nature whatsoever including interest, liquidated damages etc. of the company.

PART II: COMPROMISE AND ARRANGEMENTS WITH CREDITORS:

Based on the characteristic of the creditors and their interest in the company, the creditors have been classified into two categories, namely,

IIA. Secured creditors

IIB. Unsecured creditors

A) i) Secured Creditors:

The company is having only one secured creditor namely Bank of Baroda, who has already agreed to accept the one time settlement of its dues of the company at Rs. 455 Lakhs, the promoters/their relatives/relative's Company has paid an amount of Rs. 110.50 Lakhs



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and the balance amount of Principal of Rs. 344.50 lacs along with interest @ 9% which works out to Rs. 23.30 Lakhs making total amount of Rs. 367.80 lakhs, shall be repaid to them as under:

S.N.	Date	Amount (Rs. In Lakhs)
1	Within 15 days from the date of acceptance/Approval of Scheme by Honorable NCLT as agreed in the Meeting of the Shareholders and Creditors held on 25 th February, 2021 as per the instructions of Honorable NCLT vide order dated 20-01-2021	50.00
2	31-03-2021	11.30
3	31-03-2021	61.30
4	31-03-2021	61.30
5	30-04-2021	61.30
6	31-05-2021	61.30
7	30-06-2021	61.30
	Total :	367.80

ii) Other Conditions:

Waiver of the entire additional principal amount/interest/penal charges, over and above the amount of Rs. 367.80 on the cutoff date till the date of implementation of the scheme and release of all personal as well as Corporate Guarantee as well as properties given as securities by way of mortgage of properties by the Company to BOB.



B) i) Inter-corporate Deposits:

An amount of Rs. 109.84 Lakhs has been given by Semitrone Conchem Private Limited by way of ICD post CIRP period which has been paid to BOB towards their dues. The said Semitrone Conchem Private Limited shall be paid in full in 5 years after the complete repayment to BOB with interest at the rate of 6% per annum or shall be converted to Equity Shares/ Redeemable Preference Shares as decided mutually.

ii) Unsecured Creditors/Loan:

Dues of the unsecured creditors/Loan as on the cut off date of Rs. 58.48 Lacs (i.e. Rs. 29.19 + Rs. 29.29) shall be reduced by 80% and the balance amount of 20% i.e. Rs. 11.70 lacs shall be paid in full and final settlement within 90 days from the date of the scheme becomes effective.

Balance 80% of the outstanding amount shall be written off.

The Detail summary of the same is given as Under:

Particulars	Amount Rs. Outstanding	Reduced to 20% Amount Rs. To be Paid	80% Amount Rs. To be Written off
Unsecured Creditors	29.19 Lacs	5.84 Lacs	23.35 Lacs
Unsecured Loan	29.29 Lacs	5.86 Lacs	23.43 Lacs
Total	58.48 Lacs	11.70 Lacs	46.78 Lacs



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C) Other conditions:

- i) The applicant shall bring required contribution of Rs. 50.00 Lakhs by way of Unsecured Loans/ICD within 15 days from the date acceptance of scheme by honorable NCLT and also acceptance of the scheme in the meeting by shareholders, secured and unsecured creditors held on 25th February, 2021 as per the directions of honorable NCLT and upon implementation of the scheme.
- ii) The applicant/promoters shall further bring in additional promoters' contribution/Inter Corporate Deposits of Rs. 329.50 Lakhs and/or as required for effective implementation of the Scheme by way of unsecured loan during next six months and thereafter as per need.
- iii) Any operational debt incurred by the company on or after the cut off date shall be paid in the normal course of business.
- iv) Other than the unsecured creditors mentioned in clause -d above, unsecured creditors of the company (within India or elsewhere) including those who have not submitted their claims during the CIRP process to the resolution professional will be deemed to have been settled or waived off as per the above terms of the scheme. Accordingly, any claim against the guarantors, if any, relating to the claim, will also be discharged and the guarantee agreement, if any, shall stand terminated upon the implementation of the scheme.
- v) Additionally, all proceedings against the company, as on the cut off date, by any unsecured creditor in any court of law/forum/panel of arbitrators or any other adjudicating authority in India or elsewhere will stand dismissed and no fresh/further proceedings can be commenced against the company for any cause of action occurring on or before the date of the implementation of the scheme. Therefore, the guarantors, if any,



relating to any litigation, shall also be discharged from any liability and the guarantee agreement, if any, shall stand terminated.

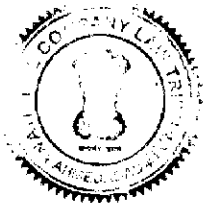
- vi) Any award/order/judgment/decreed in any court of law/forum/panel of arbitrators or any other adjudicating authority in India or elsewhere against the company shall stand discharged. No execution proceedings for any such award/order/judgment/decreed shall remain pending or can be given effect to or allowed against the company in India or elsewhere. Therefore, the guarantors, if any, relating to any such award/order/judgment/decreed shall also be discharged from any liability and the guarantee agreement, if any, shall stand terminated.
- vii) Any claim for contingent liability of the company other than those mentioned in this scheme shall stand fully discharged/settled as per the scheme and claim against the guarantors shall also be deemed to be discharged.
- viii) **Release of Mortgage Property & Personal & Corporate Guarantee of Directors/Proprietor by Secured Creditor on payment of the amount to them as mentioned in clause A(i) & (ii) above:**

a) Release of Mortgage Property :

Factory Land & Building situated at Block No. 634/P Plot No. 8 Laxmi Estate, Near Bhadaj gam, Ranchodpura Road, Village Rakanpur, Taluka, Kalol, District, Gandhinagar.

Factory Land & Building situated at Block No. 634/P Plot No. 17 Laxmi Estate, Near bhadaj gam,, Ranchodpura Road, Village Rakan Pura,, Taluka, Kalol, District, Gandhinagar.

Residential Property being Unit No. C/26, Veer Residency, Village Ranasan, Taluka, Vijapur, District, Mahesana.



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b) Release of Personal & Corporate Guarantee of Directors/Proprietor/Relatives :

Hasmukh N Shah

Mukesh R Shah

Company/Firm

Rajesh Nanalal Shah

Roshan Nanalal Shah

- ix) The applicant/promoters further agreed and proposed to pay CIRP Cost and Liquidation Cost as given below, In addition to this the promotor/applicant also undertake to pay actual cost to be incurred on executing Scheme under section 230 of the Companies Act, 2013 in the event of it has been sanctioned by Bank and honorable NCLT including cost of payment to be made to Statutory Auditors also. Further, we proposed to pay such amount within one month from the end of the month in which order from honorable NCLT pronounced. We also give here under summary of actual CIRP/Liquidation Cost as per Statement submitted by the Liquidator vs Proposed final CIRP/Liquidation Cost agreed to be pay by the company.

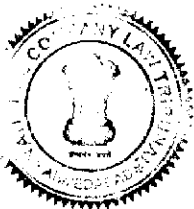
Summary Statement of Actual Cost vs Final Proposed Agreed CIRP /Liquidation Cost:

Particulars	Actual CIRP/Liquidation Cost	Proposed CIRP/Liquidation Cost
CIRP Cost Excluding Security Exps.	11,86,684/-	11,86,684/-
Security Expenses	7,10,940/-	7,10,940/-
Total (A)	18,97,624/-	18,97,624/-
Liquidation Cost Excluding Security Expenses	5,77,478/-	5,77,478/-
Security Expenses	3,60,000/-	3,60,000/-
Total (B)	9,37,478/-	9,37,478/-
Total (A + B)	28,35,102/-	28,35,102/-



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Actual Cost to be incurred on executing Application under Section 230 of the Companies Act, 2013.	At present No estimate	Actual Cost will be born by us on Approval of Scheme by NCLT.
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PART III GENERAL TERMS AND CONDITIONS:

- i) Upon the scheme becoming effective, the company shall give effect to the accounting treatment in its books of accounts in accordance with the accounting standards specified under Section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015 or any other relevant or related requirement under the Act, as applicable on the effective date.
- ii) The management of the company which was in existence prior to the cut off date shall continue post approval and implementation of this scheme. Accordingly, the day to day affairs of the company will be managed by the key management personnel of the company with guidance from the Chairman and Managing Director and the Board of Directors. The management will ensure that the scheme shall be implemented in accordance with the compliance of all applicable laws and regulations governing the terms and conditions of the scheme and shall not contravene any of the provisions of the law for the time being in force. The implementation and supervision of the scheme will be managed by the key management personnel of the company with guidance from the Chairman and Managing Director and the Board of Directors with support from external advisors as may be necessary.
- iii) The applicant may assent to any alterations/modifications/amendments to the scheme or to any conditions or limitation that the NCLT and/or any other authority may deem fit to approve, direct or impose or which may otherwise be considered necessary, desirable or appropriate by the applicant. The applicant may withdraw the scheme if any alteration/modification/amendment thereto is not acceptable to him. The applicant shall have authority to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions, whether by reason of any directive or order of the NCLT and/or any authority or otherwise, howsoever arising out of or under or by virtue of the scheme and/or any matter concerned or connected therewith.



HIGHLITED POINTS OF CHANGE BETWEEN OLD &
REVISED COMPOSITE SCHEME OF COMPROMISE AND
ARRANGEMENT

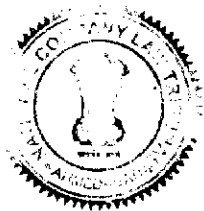
BETWEEN

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PROMOTER SHAREHOLDER/MEMBER OF MAXROTH IMPEX
PRIVATE LIMITED (IN LIQUIDATION)

AND

THE CREDITORS AND SHAREHOLDERS OF MAXROTH IMPEX
PRIVATE LIMITED (IN LIQUIDATION)



TRUE COPY

1. **DEFINITIONS**

OLD SCHEME:

- 1.1 "Unsecured Creditors" means all the operational creditors of the Company and the creditors related to the day to day operations of the Company as on the appointed date.

REVISED SCHEME :

- 1.1 "Unsecured Creditors" means all the operational creditors of the Company and the creditors related to the day to day operations of the Company as on the appointed date and also include unsecured financial creditors.

OLD SCHEME :

PART II: COMPROMISE AND ARRANGEMENTS WITH CREDITORS:

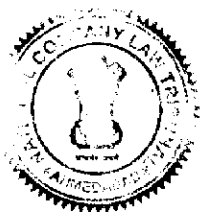
Based on the characteristic of the creditors and their interest in the company, the creditors have been classified into 2 categories, namely,

IIA. Secured creditors

IIB. Unsecured creditors

A) **Secured Creditors:**

The company is having only one secured creditor namely Bank of Baroda, who has already agreed to accept the one time settlement of its dues of the company at Rs. 455 Lakhs, the promoters/their relatives/relative's Company has paid an amount of Rs. 110.50 Lakhs and the balance amount of Principal along with interest @ 9% which works out to Rs. 23.30 Lakhs making total amount of Rs. 367.80 lakhs, shall be repaid to them as under:



S.N.	Date	Amount (Rs. in Lakhs)
1	Within 7 days from the date of acceptance of Scheme by NCLT	50.00
2	31-01-2021	11.30
3	28-02-2021	61.30
4	31-03-2021	61.30
5	30-04-2021	61.30
6	31-05-2021	61.30
7	30-06-2021	61.30
Total :		367.80

b) **Other Conditions:**

Waiver of the entire additional principal amount/interest/penal charges, over and above the amount of Rs. 367.80 on the cut off date till the date of implementation of the scheme.

c) **Inter-corporate Deposits:**

An amount of Rs. 109.84 Lakhs has been given by Semitron Conchem Private Limited by way of ICD post CIRP period which has been paid to BOB towards their dues. The said Semitron Conchem Private Limited shall be paid in full in 5 years after the complete repayment to BOB with interest at the rate of 6% per annum or shall be converted to Equity Shares/ Redeemable Preference Shares.



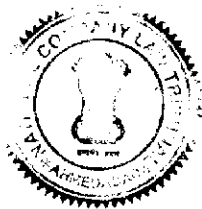
d) Unsecured Creditors:

Dues of the other unsecured creditors as on the cut off date of Rs. 29.20 Lakhs shall be reduced by 80% and the balance amount shall be paid in full and final settlement within 90 days from the date of the scheme becomes effective.

Balance 80% of the outstanding amount shall be written off.

e) Other conditions:

- i) The applicant shall bring required contribution of Rs. 50.00 Lakhs by way of Unsecured Loan within 7 days from the date of implementation of the scheme.
- ii) The applicant shall further bring in additional promoters' contribution of Rs. 25.00 Lakhs by way of unsecured loan within six months thereafter.



REVISED SCHEME:**PART II: COMPROMISE AND ARRANGEMENTS WITH CREDITORS:**

Based on the characteristic of the creditors and their interest in the company, the creditors have been classified into two categories, namely,

IIA. Secured creditors**IIB. Unsecured creditors****B) i) Secured Creditors:**

The company is having only one secured creditor namely Bank of Baroda, who has already agreed to accept the one time settlement of its dues of the company at Rs. 455 Lakhs, the promoters/their relatives/relative's Company has paid an amount of Rs. 110.50 Lakhs and the balance amount of Principal of Rs. 344.50 lacs along with interest @ 9% which works out to Rs. 23.30 Lakhs making total amount of Rs. 367.80 lakhs, shall be repaid to them as under:

S.N.	Date	Amount (Rs. In Lakhs)
1	Within 15 days from the date of acceptance/Approval of Scheme by Honorable NCLT as agreed in the Meeting of the Shareholders and Creditors held on 25 th February, 2021 as per the instructions of Honorable NCLT vide order dated 20-01-2021	50.00



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2	31-03-2021	11.30
3	31-03-2021	61.30
4	31-03-2021	61.30
5	30-04-2021	61.30
6	31-05-2021	61.30
7	30-06-2021	61.30
	Total :	367.80

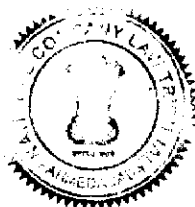
ii) Other Conditions:

Waiver of the entire additional principal amount/interest/penal charges, over and above the amount of Rs. 367.80 on the cutoff date till the date of implementation of the scheme and release of all personal as well as Corporate Guarantee as well as properties given as securities by way of mortgage of properties by the Company to BOB.

B) i) Inter-corporate Deposits:

An amount of Rs. 109.84 Lakhs has been given by Semitrone Conchem Private Limited by way of ICD post CIRP period which has been paid to BOB towards their dues. The said Semitrone Conchem Private Limited shall be paid in full in 5 years after the complete repayment to BOB with interest at the rate of 6% per annum or shall be converted to Equity Shares/ Redeemable Preference Shares as decided mutually.

ii) Unsecured Creditors/Loan:



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Dues of the unsecured creditors/Loan as on the cutoff date of Rs. 58.48 Lacs (i.e. Rs. 29.19 + Rs. 29.29) shall be reduced by 80% and the balance amount of 20% i.e. Rs. 11.70 lacs shall be paid in full and final settlement within 90 days from the date of the scheme becomes effective.

Balance 80% of the outstanding amount shall be written off.

The Detail summary of the same is given as Under:

Particulars	Amount Rs. Outstanding	Reduced to 20% Amount Rs. To be Paid	80% Amount Rs. To be Written off
Unsecured Creditors	29.19 Lacs	5.84 Lacs	23.35 Lacs
Unsecured Loan	29.29 Lacs	5.86 Lacs	23.43 Lacs
Total	58.48 Lacs	11.70 Lacs	46.78acs

C) Other conditions:

- iii) The applicant shall bring required contribution of Rs. 50.00 Lakhs by way of Unsecured Loans/ICD within 15 days from the date acceptance of scheme by honorable NCLT and also acceptance of the scheme in the meeting by shareholders, secured and unsecured creditors held on 25th February, 2021 as per the directions of honorable NCLT and upon implementation of the scheme.
- iv) The applicant/promoters shall further bring in additional promoters' contribution/Inter Corporate Deposits of Rs. 329.50 Lakhs and/or as required for effective



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implementation of the Scheme by way of unsecured loan during next six months and thereafter as per need.

- v) Any operational debt incurred by the company on or after the cutoff date shall be paid in the normal course of business.
- vi) Other than the unsecured creditors mentioned in clause -d above, unsecured creditors of the company (within India or elsewhere) including those who have not submitted their claims during the CIRP process to the resolution professional will be deemed to have been settled or waived off as per the above terms of the scheme. Accordingly, any claim against the guarantors, if any, relating to the claim, will also be discharged and the guarantee agreement, if any, shall stand terminated upon the implementation of the scheme.
- vii) Additionally, all proceedings against the company, as on the cutoff date, by any unsecured creditor in any court of law/forum/panel of arbitrators or any other adjudicating authority in India or elsewhere will stand dismissed and no fresh/further proceedings can be commenced against the company for any cause of action occurring on or before the date of the implementation of the scheme. Therefore, the guarantors, if any, relating to any litigation, shall also be discharged from any liability and the guarantee agreement, if any, shall stand terminated.
- viii) Any award/order/judgment/decree in any court of law/forum/panel of arbitrators or any other adjudicating authority in India or elsewhere against the company shall stand discharged. No execution proceedings for any such award/order/judgment/decree shall remain pending or can be given effect to or allowed against the company in India or elsewhere. Therefore, the guarantors, if any, relating to any such award/order/judgment/decree shall also be discharged from any liability and the guarantee agreement, if any, shall stand terminated.



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ix) Any claim for contingent liability of the company other than those mentioned in this scheme shall stand fully discharged/settled as per the scheme and claim against the guarantors shall also be deemed to be discharged.

x) Release of Mortgage Property & Personal & Corporate Guarantee of Directors/Proprietor by Secured Creditor on payment of the amount to them as mentioned in clause A(i) & (ii) above:

a) Release of Mortgage Property :

Factory Land & Building situated at Block No. 634/P Plot No. 8 Laxmi Estate, Near Bhadaaj gam, Ranchodpura Road, Village Rakanpur, Taluka, Kalol, District, Gandhinagar.

Factory Land & Building situated at Block No. 634/P Plot No. 17 Laxmi Estate, Near bhadaaj gam,, Ranchodpura Road, Village Rakanpur,, Taluka, Kalol, District, Gandhinagar.

Residential Property being Unit No. C/26, Veer Residency, Village Ranasan, Taluka, Vijapur, District, Mahesana.

b) Release of Personal & Corporate Guarantee of Directors/Proprietor/Relatives :

Hasmukh N Shah

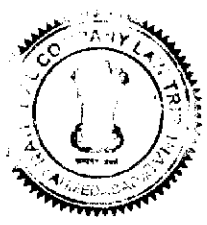
Mukesh R Shah

Company/Firm

Rajesh Nanalal Shah

Roshan Nanalal Shah

xi) The applicant/promotors further agreed and proposed to pay CIRP Cost and Liquidation Cost as given below, In addition to this the promotor/applicant also undertake to pay actual cost to be incurred on executing Scheme under section 230 of the Companies Act, 2013 in the event of it has been sanctioned by Bank and honorable NCLT including cost of payment to be made to Statutory Auditors



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also. Further, we proposed to pay such amount within one month from the end of the month in which order from honorable NCLT pronounced. We also give here under summery of actual CIRP/Liquidation Cost as per Statement submitted by the Liquidator vs Proposed final CIRP/Liquidation Cost agreed to be pay by the company.

Summary Statement of Actual Cost vs Final Proposed Agreed CIRP /Liquidation Cost:

Particulars	Actual CIRP/Liquidation Cost	Proposed CIRP/Liquidation Cost
CIRP Cost Excluding Security Exps.	11,86,684/-	11,86,684/-
Security Expenses	7,10,940/-	7,10,940/-
Total (A)	18,97,624/-	18,97,624/-
Liquidation Cost Excluding Security Expenses	5,77,478/-	5,77,478/-
Security Expenses	3,60,000/-	3,60,000/-
Total (B)	9,37,478/-	9,37,478/-
Total (A + B)	28,35,102/-	28,35,102/-
Actual Cost to be incurred on executing Application under Section 230 of the Companies Act, 2013.	At present No estimate	Actual Cost will be born by us on Approval of Scheme by NCLT.



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