

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
ORIGINAL JURISDICTION

COMPANY PETITION NO. 199 OF 2002

Connected with

COMPANY APPLICATION NO. 177 OF 2002

Sd/-
Section Officer
Decree Department
Dt. 0-1-2003
S. T. No. 1504/02

Copy applied on 13-12-02
Copy ready on 6-1-03
Copy delivered on,
Sent by
Regd. by Posts,
Sd/-
Assistant
6-1-03

In the matter of Scheme of Arrangement under Section
391 of the Companies Act, 1956

AND

IN THE MATTER OF APAR INDUSTRIES LIMITED, a
Company registered under the Companies Act, 1956
and having its Registered Office at 301, Panorama Complex,
R.C. Dutt Road, Vadodara 390 007 in the State of Gujarat.

AND

In the matter of Scheme of Arrangement between APAR
INDUSTRIES LIMITED and its Equity Shareholders and
Preference Shareholders (Series I & II).



APAR INDUSTRIES LIMITED, a Company
incorporated under the Companies Act, 1956
and having its Registered Office at 301,
Panorama Complex, R.C. Dutt Road, Vadodara
390007 Petitioner Company

BEFORE HONOURABLE Mr. JUSTICE K. A. Puj

Date : 5th December, 2002

Order On Petition

The above petition coming on for hearing on 5th December 2002, upon reading the said petition, the order dated 10.7.2002 in the Company Application No. 177 of 2002 whereby separate meetings of the Equity Shareholders, Preference Shareholders Series-I & II, Secured and Unsecured creditors of the Company, for the purpose of considering, and if thought fit, approving, with or without modification the compromise or arrangement proposed to be made between the said Company and its members by the Scheme of Arrangement in the form of conversion of 10% Redeemable Cumulative Preference Share Capital Series II into 10% Non-convertible Redeemable Debentures of the petitioner Company were directed to be convened, and annexed to the affidavit of Shri D.C. Patel filed on 5th day of July, 2002 and The Indian Express - the English daily, and Loksatta Jansatta - the Gujarati daily (both Vadodara editions) dated 19.8.2002 each containing the advertisement of the said notice convening the said meetings directed to be held by the said order dated 10.7.2002, the affidavit of Dr. N.D. Desai filed on the 3rd day of September, 2002 showing the publication and dispatch of the notices convening the said meetings, the report of the Chairman of the said meetings dated 4.10.2002 as to the result of the said meetings, and upon hearing Smt. Swati-Soparkar, Advocate for the petitioner Company and Smt. P. J. Davawala, Additional Standing Counsel appearing for the Central Government and it appearing from the report that the proposed arrangement - with modifications - has been unanimously approved by the Equity Shareholders, Preference Shareholders Series-I & II, Secured Creditors and Unsecured Creditors present and voting in person or by proxy.

This Court doth hereby sanction the arrangement set forth in para 8 of the petition, with modifications annexed therewith as Annex. 'D', and the modified scheme annexed there with as Annex. 'E' and the schedule annexed hereto and doth hereby declare the same to be binding on the shareholders and creditors of the abovenamed

Company and also on the abovenamed Company.

And this Court doth further order that parties to the compromise or arrangement or other persons interested shall be at liberty to apply to this Court for any direction that may be necessary in regard to the working of the compromise or arrangement, and

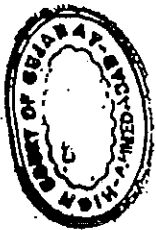
That the said Company do file with the Registrar of the Companies, a certified copy of this order within 30 days from the receipt of the same, and

This Court doth further order payment of Rs. 3,500/- in aggregate as the cost of this petition awardable to Smt. P.J. Davawala, Addl. Central Government Standing Counsel.

SCHEDULE

Scheme of Compromise or Arrangement as sanctioned by the court.

Dated this 5th December, 2002.



Modified Scheme of Arrangement
(Under Section 391 of the Companies Act, 1956)

between

APAR INDUSTRIES LIMITED ... "THE COMPANY"

And

ITS EQUITY SHAREHOLDERS AND
PREFERENCE SHAREHOLDERS (Series I & II) ... "THE MEMBERS"

1. Definitions :

In this Scheme, unless repugnant to the subject or context, the following expression shall have the following meanings :

- 1.1 "Act" means the Companies Act, 1956 and shall include any statutory modifications and/or any statutory re-enactments thereof from time to time.
- 1.2 "Scheme" means this Scheme of Arrangement between Apar Industries Limited (the Company / Apar) and its Equity Shareholders and Preference Shareholders (Series I & II) in relation to restructure / conversion of 10% Redeemable Cumulative Preference Shares (Series II) into 10% Non-Convertible Redeemable Debentures of the Company.
- 1.3 "Appointed Date" means 1st April, 2002.
- 1.4 "Effective Date" means the date of coming into effect of the Scheme that shall occur on the last of the dates specified in clause 6.4 of this Scheme.
- 1.5 "Apar" or "the Company" means Apar Industries Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 301, Panorama Complex, R.C. Dutt Road, Vadodra 390007 in the State of Gujarat.
- 1.6 "Members" or "the Shareholders" means Equity Shareholders and Preference Shareholders (Series I & II) of the Company unless the context otherwise requires or specifically mentioned.
- 1.7 "Series II Preference Share Capital" means Preference Shares issued and allotted as specified in Clause 3.1 of this Scheme.



2. Share Capital :

The Capital structure of Apar (the Company) as on 31st March, 2002 is as under :

Authorised Capital :		
26,000,000 - Equity Shares of Rs.10/- each amounting to		Rs. 260,000,000
49,000,000 - Redeemable Preference Shares of Rs. 10/- each amounting to		Rs. 490,000,000
	Total :	Rs. 750,000,000
Issued, Subscribed and Paid up :		
(a) 20,806,045 - Equity Shares of Rs.10/- each fully paid up amounting to		Rs. 208,060,450
	Less : Calls unpaid	Rs. 22,449
		Rs. 208,038,001

(b) 7,838,785 - 10% Redeemable Cumulative Preference Shares of Rs. 10/- each (Series I)	
fully paid up amounting to	Rs. 78,387,850
Less : Calls unpaid	Rs. 164,644
	<u>Rs. 78,223,206</u>

(c) 25,000,000 - 10% Redeemable Cumulative Preference Shares of Rs. 10/- each (Series II)	
fully paid up amounting to	Rs. 250,000,000
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3. Series II Preference Share Capital :

3.1 In terms of the Scheme of Arrangement (Amalgamation) between Gujarat Apar Polymers Limited (GAPL), Apar Limited and their respective members, which was approved by the Hon'ble High Court of Gujarat under Section 391/394 of the Companies Act, 1956, the Company has issued and allotted 25,000,000 10% Redeemable Cumulative Preference Shares (Series II) of Rs. 10/- each aggregating to Rs. 250,000,000/- (Rs. 25 crores) to seven members of Apar Limited. These shares have been issued effective from 19th April, 1999 in terms of Clause 3.15 of the aforesaid Scheme in consideration / extinguishment of loans and advances made by them for Industrial Business of Apar Limited.

3.2 As per the terms of issue, Series II Preference Share Capital is to be redeemed at par in three installments as under:-

- 30% of face value (Rs. 3 per share) on 1.4.2003 (Rs. 7.5 crores),
- 30% of face value (Rs. 3 per share) on 1.4.2004 (Rs. 7.5 crores),
- 40% of face value (Rs. 4 per share) on 1.4.2005 (Rs. 10.0 crores).

The terms of issue of the above shares do not specifically provide for convertibility of the same into Equity Shares or Debentures or any other debt instrument before its due date of first installment for redemption or at any subsequent date.

3.3 Series II Preference Shares are not listed at any of the Stock Exchanges as they are held by members of the Promoter group only. The Equity Shares and Preference Shares (Series I) of the Company are listed with the Stock Exchanges in India.

4. Conversion of Series II Preference Share Capital :

4.1 Upon the Scheme being effective, 25,000,000 - 10% Redeemable Cumulative Preference Shares (Series II) of Rs. 10/- each aggregating to Rs. 250,000,000/- (Rs. 25 crores) shall, pursuant to the provisions contained in Section 391 read with the provisions of Sections 80, 81(1A), 100, 106 and 117 of the Act, without any further act, deed, matter or thing be and shall stand converted or be deemed to be converted into 250,000 - 10% Non-Convertible Redeemable Debentures (NCDs) of Rs. 1000/- each aggregating to Rs. 250,000,000/- in the following manner :-

L F NO.	NAME OF THE PRESENT SHAREHOLDERS	NO. OF PREF. SHARES (SERIES II) OF Rs. 10/- EACH	NO. OF PREF. SHARES WHICH STAND CONVERTED INTO NCDs WITH RETROSPECTIVE EFFECT FROM 1/4/2002	NO. OF PREF. SHARES WHICH WILL STAND CONVERTED INTO NCDs W.E.F. 1/4/2003
1.	Dr. Narendra D.Desai (Karta - D.D.Desai HUF NO. 1)	50,00,000	30,00,000	20,00,000
2.	Dr. Narendra D.Desai	50,00,000	30,00,000	20,00,000
3.	Shri Kushal N. Desai	30,00,000	18,00,000	12,00,000
4.	Shri Chaitanya N. Desai	35,00,000	21,00,000	14,00,000

5.	Consumer Services Pvt. Ltd.	10,00,000	6,00,000	4,00,000
6.	Scope Private Limited	38,00,000	22,80,000	15,20,000
7.	Ceom Private Limited	37,00,000	22,20,000	14,80,000
	TOTAL	2,50,00,000	1,50,00,000	1,00,00,000

4.2 With effect from the Appointed Date and upto and including the Effective Date (1.4.2002), 1,50,00,000 Preference Shares (Series II) of Rs. 10 each aggregating to Rs.15,00,00,000 shall be deemed to be 10% Non-Convertible Redeemable Debentures in the books of the company and remaining 1,00,00,000 such shares aggregating to Rs. 10,00,00,000 shall be deemed to be 10% Non-Convertible Redeemable Debentures from 1st April, 2003.

4.3 In consideration of the provisions of the Scheme, and upon it becoming effective, the existing Authorized Share Capital of Rs. 750,000,000 of the company shall not change. However, the paid-up share capital of Company shall be reorganized and the rights attached to the existing Preference Shares (Series II) of the Company shall be varied in pursuance of Section 106 of the Act in the manner and terms and conditions appearing hereinafter below. The provisions of this part shall operate, notwithstanding anything to the contrary in this Scheme or in any other instrument, deed or writing.

4.4 Reorganization of the Share Capital:-

(a) Notwithstanding anything to the contrary, and in view of projected profitability and with a view to minimize Company's cash outflow on account of simultaneous redemptions of Preference Shares of Series I and II, the paid up Preference Share Capital (Series II) of the Company as on 1.4.2002 shall be restructured by way of variation of rights attached to the existing Preference Shares (Series II) in pursuance of Section 106 read with the applicable provisions of Section 80, 81(1A), 100 and 117 of the Act as under:-



In respect of 1,50,00,000 shares to be converted into Non-Convertible Debentures, with effect from 1.4.2002, for every 100 (hundred) fully paid Preference Shares (Series II) held by shareholders whose names appear in the Company's Register of Members on a date to be fixed by the Board of Directors of the company or any committee thereof (hereinafter referred to as the "Specified Date"), shall be issued and allotted, 1 (one) 10% Non-convertible Redeemable Debentures of the face value of Rs.1,000/- each of the Company aggregating to Rs. 15,00,00,000 in the manner described vide clause 4.1 above and that the interest will accrue on the said NCDs of Rs. 15,00,00,000/- from the Appointed Date i.e. 1st April, 2002 and in respect of balance 1,00,00,000 such shares, such NCDs of Rs.10,00,00,000 will be issued and allotted in the manner described vide clause 4.1 above and that the interest will accrue thereon from the effective date of its allotment i.e. 1st April, 2003.

The unconverted part of Preference Shares Capital (Series II) as on Effective Date aggregating to Rs. 10,00,00,000 shall be entitled to receive dividend for the financial year 2002-2003 as and when declared.

(b) The reorganized/restructured, issued and paid-up Share Capital of the Company would be as under :-

(i) As on Effective Date of the Scheme and upto 31st March, 2003:

(i)	20,806,045	Equity Shares of Rs. 10/- each fully paid up amounting to	Rs. 208,060,450
		Less : Calls unpaid	Rs. 22,449
			<hr/> Rs. 208,038,001
(ii)	7,838,785	10% Redeemable Cumulative Preference Shares of Rs. 10/- each (Series I) fully Paid up amounting to	Rs. 78,387,850
		Less : Calls unpaid	Rs. 164,644
			<hr/> Rs. 78,223,206

(iii) 1,00,00,000	10% Redeemable Cumulative Preference shares of Rs. 10/- each (Series II) fully paid up amounting to	Rs. 10,00,00,000
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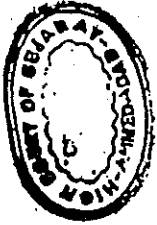
(ii) With effect from 1st April 2003 :-

(i) 20,806,045	Equity Shares of Rs. 10/- each fully paid up amounting to	Rs. 208,060,450
	Less : Calls unpaid	Rs. 22,449

Rs. 208,038,001

(ii) 7,838,785	10% Redeemable Cumulative Preference Shares of Rs. 10/- each (Series I) fully Paid up amounting to	Rs. 78,387,850
	Less : Calls unpaid	Rs. 164,644

Rs. 78,223,206



- (c) Upon coming into effect of the Scheme, the Preference shareholders of Series II of the Company, shall surrender their relevant Preference Share Certificates of the Face Value of Rs. 15,00,00,000 for cancellation thereof. The said shareholders shall further surrender such share certificates of the Face Value of Rs. 10,00,00,000 for cancellation on 1.4.2003. Notwithstanding anything to the contrary, on the respective dates, the existing Preference Share Certificates of Series II for the number of shares which shall be converted into NCDs as provided under clause 4.1 above shall stand automatically cancelled and shall be replaced by the issue of aforesaid 10% Non-Convertible Redeemable Debentures of the face value of Rs.1,000/- each in the Company in the manner specified vide clause 4.1 above.

5. Terms & Conditions of Conversion / Issue of Debentures :

- 5.1 250,000 – 10% NCDs of Rs. 1000/- each fully paid up, aggregating to Rs. 250,000,000/- shall be issued in the ratio of 1 NCD of Rs. 1000/- face value for every 100 Preference Shares (Series II) of Rs. 10/- each in the manner described vide clause 4.1 above.
- 5.2 Since the above NCDs are to be issued on private placement basis and in accordance with the provisions of Section 391 of the Companies Act, 1956 under a Scheme of Arrangement to be approved by the Hon'ble High Court of Gujarat, no Prospectus or Offer Letter shall be issued for the issue of aforesaid NCDs. Accordingly, the relevant provisions of SEBI (Disclosures & Investors Protection) Guidelines, 2000 for the issue of Debentures, are not applicable to the Company.
- 5.3 Interest @ 10 % p.a. on face value of each NCD shall be payable on annual basis i.e. on 31st March, every year. First payment of interest in respect of 150,000 NCDs of Rs. 1000/- each aggregating to Rs. 150,000,000/- for the period 1st April, 2002 to 31st March, 2003 shall due on 31st March, 2003. Similarly the first payment of interest in respect of 100,000 NCDs of Rs. 1000/- each aggregating to Rs. 100,000,000/- for the period 1st April, 2003 to 31st March, 2004 shall due on 31st March, 2004. The unpaid interest, if any shall be accumulated in the books of accounts as liability.
- 5.4 NCDs shall be secured by way of mortgage of specified properties ranking second or third in priority of charge, subject to consent of Financial Institutions and Bankers and / or such other charge as may be approved by the financial institutions/banks. The Board of Directors of the Company shall have power with the consent of Series II Preference Shareholders / Debentureholders to vary or create such other security as may be agreed to by the existing chargeholders. For securing the NCDs, the Board of Directors of the Company shall appoint suitable person or body corporate or bank as Trustee for the debentureholders.
- 5.5 Each NCD shall be redeemable in five equal installments at par on face value of Rs. 1,000/- in the following manner :

20% of face value (Rs.200/- per NCD) on 31st March, 2007 (Rs.5 crores);

- 20% of face value (Rs.200/- per NCD) on 31st March, 2008 (Rs.5 crores);
- 20% of face value (Rs.200/- per NCD) on 31st March, 2009 (Rs. 5 crores);
- 20% of face value (Rs.200/- per NCD) on 31st March, 2010 (Rs. 5 crores);
- 20% of face value (Rs.200/- per NCD) on 31st March, 2011 (Rs. 5 crores).

Further, considering the financial position of the Company,

- (a) The Board of Directors of the Company shall have option / discretion to redeem the above NCDs for such amount and in such manner and at any time prior to the above schedule of redemption as the Board may decide.
- (b) Similarly, with the consent of debentureholders, the Board of Directors of the Company may extend the aforesaid redemption period by roll over of NCDs for such amount and for such further period and on such terms and conditions as it may deem fit.

5.6 Upon payment of each installment fully or partially, the face value of each debenture shall stand reduced automatically to that extent and no interest shall accrue to the debentureholders on the amount paid towards full or part redemption of debenture.

5.7 Upon issue and allotment of aforesaid NCDs in the manner described vide clause 4.1 above, the converted part of Preference Shares (Series II), shall stand automatically cancelled and of no value and would not be entitled to receive any dividend and accordingly, the said Preference Shares shall be deemed to be redeemed / paid in full in accordance with the provisions of Section 80 of the Companies Act, 1956. The rights, privileges and obligations attached to the Preference Shares in pursuance of relevant provisions of the Companies Act, 1956 shall get extinguished. However dividend on (Series II) Preference Share Capital @ 10% p.a. for the financial year 2001-2002 (upto the Appointed date) has been recommended by the Board of Directors of the Company and the same will be paid by the Company to its holders as on the 31st May, 2002, after the same is declared at the next Annual General Meeting of shareholders of the Company.

5.8 In terms of Section 117C read with clarification issued by the Deptt. of Company Affairs vide its General Circular No. 9/2002 dated 18/4/2002, a Debenture Redemption Reserve (DRR) of total amount of Rs. 62,500,000, which is equal to 25 % of the aggregate face value of NCDs, shall be created out of the Profits of the Company, beginning from the financial year 2002-2003 over a period until the debentures are fully redeemed in such amounts as the Board of Directors shall determine from time to time, and the DRR amount shall be utilised for redemption of this NCDs only.

5.9 NCDs shall be transferrable in accordance with the applicable provisions of the Companies Act, 1956 but NCDs shall not be listed with any Stock Exchanges in India or abroad.

5.10 The holders of NCDs shall not have any right of voting at any of the meetings of shareholders nor they have priority in claiming their dues in the event of winding up of the company.

6. General Terms and Conditions of the Scheme :

6.1 On the Scheme being agreed to by the requisite majorities of the members and creditors, the Company (Apar) shall with reasonable dispatch apply to the High Court of Judicature at Gujarat, for sanctioning this Scheme of Arrangement under Section 391 of the Act and if required, for an order or orders under Section 394 of the Act for carrying this Scheme into effect.

6.2 The Company, (by their Directors) or by any committee thereof may, in their full and absolute discretion, assent to any alteration or modification of this Scheme which the Court or any other Competent Authority may deem fit to approve or impose and may give such direction as they may consider necessary to settle any question or difficulty arising under this Scheme or in regard to its implementation, or in any matter connected therewith.



- 6.3 This Scheme is conditional upon and subject to :
- (a) The Scheme being agreed to by the requisite majorities of the members and creditors (if required) of the Company and the requisite Orders of the Hon'ble High Court at Gujarat being obtained.
 - (b) Such other sanctions and approvals as may be required, in respect of the Scheme, being obtained.

6.4 This Scheme, although to come into operation from the Appointed Date, shall not become effective until the last of the following dates, namely :

- (a) That on which the last of the aforesaid consents, approvals, permissions, resolutions and orders as mentioned in clause 6.3 shall be obtained or passed;
- (b) That on which certified copies of order(s) of the Hon'ble Gujarat High Court under sections 391 and 394 of the Act shall be duly filed with the Registrar of Companies, Gujarat at Ahmedabad.

The last of such dates shall be the "Effective Date" for the purpose of this Scheme. All references to the 'Scheme coming into effect' shall refer to the 'Effective Date'

- 6.5 Upon the Scheme becoming effective, the Company shall allot and issue its Debentures as provided in the Scheme as soon as it is practicable.
- 6.6 Upon the Scheme becoming effective, the Company shall not be required to use the words "and reduced" after its name. The extinguishment of Series II Preference Share Capital under the Scheme shall not be considered as redemption for the purposes of Section 80 of the Act.
- 6.7 Upon the Scheme coming into effect, no separate compliance or permissions/approvals/consents under the applicable provisions of Sections 80, 81 / 81(1A), 100, 106, 117, 293 (1) (a) and other applicable provisions (if any) of the Act shall be necessary for the purpose of implementation of this Scheme.
- 6.8 Since this Scheme does not involve a "Conveyance of any property" under Section 394 of the Act, the Order of the Gujarat High Court, sanctioning the Scheme under Section 391 of the Act shall not attract any Stamp Duty under the Bombay Stamp Act, 1958 as applicable to Gujarat or any other rules or regulations thereunder.
- 6.9 All costs, charges and expenses including stamp duty and registration fee of any deed, document, instrument in relation to or in connection with negotiations leading up to the Scheme and up to the obtaining of the Court's Order shall be borne and paid by the Company.
- 6.10 In the event of any of the said sanctions, conditions and approvals referred to in clause 6.3 above not being obtained and / or this Scheme not being sanctioned by the High Court of Gujarat and/or order or orders not being passed as aforesaid before 31.3.2003 or within such further period or periods as may be decided by the Board of Directors of the Company, this Scheme shall stand revoked, cancelled and be of no effect.



Dated this 5th day of December 2002.

Witness/ Daya Saran Sinha Esquire,

the Chief Justice at Ahmedabad

aforesaid this 5th day of December Two Thousand Two.

By the order of the Court

[Signature]
Joint Registrar

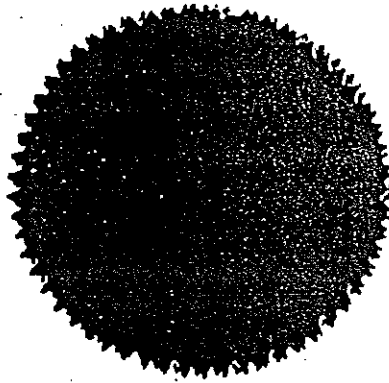
this ^{6th} day of ^{January} December 2002



Order drawn by :

Swati Sarparkar
(Swati Saurabh Soparkar)

Advocate



Sealer

[Signature]
This ^{11th} day of ^{January} December 2002
[Signature]

[Signature]
JOINT REGISTRAR
VIMS 6-1-03 DAY OF