

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT - II



C.A(CAA)/237/MB-II/2023

*In the matter of*

Companies Act, 2013

AND

*In the matter of*

*Companies Act, 2013 (18 of 2013) and*  
Section 230-232 of the Companies Act,  
2013 and other applicable provisions of  
the Companies Act, 2013 read with the  
Companies (Compromises,  
Arrangements and Amalgamations)  
Rules, 2016;

In the matter of Scheme of Merger by  
Amalgamation of PIOUS  
ENGINEERING PRIVATE LIMITED,  
the Transferor Company by INDO  
AMINES LIMITED, the Transferee  
Company

PIOUS ENGINEERING PRIVATE )  
LIMITED, a company incorporated under )  
the Companies Act, 1956 having its )  
registered office at Plot 73, Laxmi Terrace, )

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Ranade Road, Shivaji Park, Dadar West, )...Applicant Company

Mumbai – 400 028.

No.1

CIN No. - U29200MH1996PTC101573

INDO AMINES LIMITED, a company )

incorporated under the Companies Act, )

1956 having its registered office at W-44, )

MIDC Phase II, MIDC, Dombivli East, )

Thane – 421 203

) ...Applicant Company

CIN No. L99999MH1992PLC070022

No.2

**Order delivered on :- 08.01.2024**

***Coram:***

**Anil Raj Chellan**

**Kuldip Kumar Kareer**

**Member (Technical)**

**Member (Judicial)**

For the Applicants

: Mr. Ahmed Chunawala, i/b  
Rajesh Shah & Co, Advocates

**ORDER**

***Per: Coram***

1. Learned Counsel for the Transferor Company and Transferee Company (collectively referred to as ‘Applicant Companies’)

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states that the present Scheme is a Scheme of Merger by Amalgamation of PIOUS ENGINEERING PRIVATE LIMITED, the Transferor Company by INDO AMINES LIMITED, the Transferee Company under sections 230 to 232 of the Companies Act, 2013 ('Scheme').

2. Learned Counsel for the Applicant Companies states that the Board of Directors of the Amalgamating Company and Amalgamated Company in their respective meetings conducted on 8<sup>th</sup> August, 2022 and subsequently on 3<sup>rd</sup> April, 2023 for the Transferor Company and the Transferee Company have approved the Scheme.
3. The rationale for the proposed Scheme is as under:

The Management of Applicant Company No.1 and the Applicant Company No.2 are of the opinion that the proposed amalgamation would be in the best interest of the Parties and their respective shareholders, employees, creditors and other stakeholders as the proposed amalgamation will yield advantages as set out inter alia below:

- a. The Companies believe that the combined business will augment industry-leading revenue growth and profitability. Further, the Companies expect that their combined balance sheet will provide diverse strategic options and

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flexibility arising from cost efficiencies and synergies such as optimization of sales, general and administration costs.

- b. Amalgamation of the Transferor Company with the Transferee Company will provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, the amalgamation will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of both the companies. The merged entity will also have sufficient funds required at lower cost than what Transferor Company borrowed for meeting its long term capital & working capital.
- c. Strengthened strong position in the industry, in terms of the assets base, revenues, product range, production volumes, integrated supply chain and market share of the combine entity.
- d. Greater efficiency in cash management by cost saving for all the Companies as they are capitalizing on each other's core competency and a resource which is expected to result in

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stability of operations, cost savings and higher profitability levels for the Amalgamated Company.

- e. Greater integration, financial strength and flexibility for the amalgamated company, which would result in improved overall shareholder value.
- f. Simplified management structure, leading to better administration and reduction in costs from more focused operational efforts, rationalization, standardization and simplification of business processes, elimination of duplication, reduction in multiplicity of legal and regulatory compliances and rationalization of administration expenses.

As a result, the Board of Directors of Transferor Company and Transferee Company are proposing this Scheme under Section 230 to 232 of the Companies Act, 2013, which they believe is in the best interest of the shareholders and creditors.

4. The Business Clause is as follows:

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- i. The Applicant Company No. 1 in the business of manufacturing, processing, importing, exporting, trading or dealing in dies, blocks, moulds, tools, jigs, patterns, stores, spare parts, accessories, designs, profiles, industrial appliances, implements and equipment's and to carry on the process of grinding, machining, punching, drawing, fabrication, rolling, bending, slitting, pressing, sheaving, engineering on Iron & steel, alloy steel carbon, ferrous and non-ferrous metal on job work or contract basis or on their own material for sell.
- ii. The Applicant Company No. 2 is, inter alia, engaged into carry on the business of manufacturing and marketing of organic chemicals, fine chemicals, specialty chemicals for polymers and inorganic chemicals, chemical intermediates for pharmaceuticals.
5. The Authorised Share Capital of the Applicant Company No.1, as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Particulars</b>	<b>Amount in (Rs.)</b>
<b>Authorised Capital</b>	
40,000 Equity Shares of Rs.100/-each	40,00,000
<b>Total</b>	<b>40,00,000</b>

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<b>Issued and Subscribed and Paid-up</b>	
36,000 Equity Shares of Rs.100/- each fully Paid-up	36,00,000
<b>Total</b>	<b>36,00,000</b>

As on date there is no change in the capital structure of the Applicant Company No.1.

6. That there are 2 (Two) Equity Shareholders in the Applicant Company No.1. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Merger by Amalgamation of PIOUS ENGINEERING PRIVATE LIMITED, the Transferor Company by INDO AMINES LIMITED, the Transferee Company is dispensed with in view of the consent affidavits given by both the Equity Shareholders of the Applicant Company No.1, which are annexed as 'Exhibit I-1 and I-2' to the Company Scheme Application.
7. The Share Capital of the Applicant Company No.2 as on the 31<sup>st</sup> day of March, 2023 is as under:

<b>Particulars</b>	<b>Amount in (Rs.)</b>
<b>Authorised Capital</b>	

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10,14,80,000 Equity Shares of Rs.5/-each	50,74,00,000
<b>Total</b>	<b>50,74,00,000</b>
<b>Issued, Subscribed and Paid-up</b>	
7,06,97,560 Equity Shares of Rs.5/- each fully Paid-up	35,34,87,800
<b>Total</b>	<b>35,34,87,800</b>

As on date, there is no change in the capital structure of the Applicant Company No.2.

8. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Merger by Amalgamation of PIOUS ENGINEERING PRIVATE LIMITED, the Transferor Company by INDO AMINES LIMITED, the Transferee Company shall be convened & held at C.K. P Hall, Ram Ganesh Gadkari Path, Near Karwa Hospital, Dombivli (East), Thane – 421201 on Wednesday, 6<sup>th</sup> March, 2024 at 11:00 AM through video conferencing or other audio visual means.
9. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company No. 2 to be held as



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aforesaid, a notice convening the said Meeting at the place, day, date and time as decided by the Chairman, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed form of proxy, shall be sent by registered post or by air mail or by courier or by speed post or by hand delivery or email to each of the Equity Shareholders of all the Applicant Company No. 2 at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company No.2 or can be obtained free of charge at the registered office of the Applicant Company. The Applicant Company No.2 shall publish the notice convening the meeting of Equity Shareholders in 'The Free Press Journal – Mumbai Edition' in English and 'Navshakti' in Marathi having circulation in the State of Maharashtra in which the registered office of the company is situated.

10. The Applicant Company No. 2 undertakes to:
  - i. Issue notice convening meeting of the Equity Shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
  - ii. issue statement containing all the particulars as per Section 230 of the Companies Act, 2013;

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- iii. Issue form of proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
  - iv. advertise the notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. That Mr. Chandan Singh Juneja having email id as :- [chandansinghJuneja@gmail.com](mailto:chandansinghJuneja@gmail.com), having mobile no. :- 9915283064, is appointed as the Chairperson of the said meeting. The Chairperson shall be paid Rs. 1,50,000/- ( Rupees One Lakh Fifty Thousand Only) excluding the applicable taxes.
  12. The Scrutinizer for the meeting of the Applicant Company No. 2 shall be Mr. Shashank Ghaisas (Membership No. FCS F11782) failing him Mr. Vijay Yadav (Membership No. FCS F11990), a Partner of M/s. AVS & Associates, Practicing Company Secretaries. The Scrutinizer shall be paid Rs. 75,000/- (Rupees Seventy-Five Thousand Only) excluding the applicable taxes.
  13. The Chairperson appointed for the aforesaid Equity Shareholders of the Applicant Company No. 2 to issue the notices of the meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including

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an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

14. The quorum for the aforesaid meeting of the Equity Shareholders of the Applicant Company No. 2 shall be as prescribed under Section 103 of the Companies Act, 2013.
15. The voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the meeting, is filed with all the Applicant Company No.2 at their respective Registered Office not later than, 48 hours before the aforesaid Equity Shareholders meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
16. The value and number of the shares of each member shall be in accordance with the books/ register of all the Applicant Company No. 2 or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
17. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the

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18. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within thirty days of the conclusion of the meeting, as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
19. That Counsel for all the Applicant Company No. 2 submits that since the Scheme is an Amalgamation between the Applicant Company and their respective shareholders, only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013.
20. That the counsel for the Applicant Companies submits that there are no Secured Creditors in the Applicant Company No. 1 mentioned in Para 20 of the Application
21. That there is 15 (Fifteen) Secured Creditors of having value of Rs. 2,84,16,44,551/- in the Applicant Company No.2 as on 31<sup>st</sup> March, 2023. The Applicant Company No. 2 have procured consent affidavits of 75% of the Secured Creditors. However, this Bench hereby directs either to procure consent affidavits of at least ninety percent value of its Secured Creditors, as per Section 230(9) of the Companies Act, 2013 before filing of the Company Petition and annex the same with the Company Petition or to convene and hold the meeting of the Secured Creditors of the Applicant Company No. 2.

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22. That there are 33 (Thirty-Three) Unsecured Creditors having value of Rs. 27,55,317/- (Rupees Twenty-Seven Lakhs Fifty-five Thousand Three Hundred and Seventeen Only) as on 31<sup>st</sup> March, 2023. The Counsel for the Applicant Company No. 1 submits that so far as Unsecured Creditors of the Applicant Company No. 1 are concerned most of them are in the nature of loan/sundry/trade creditors for activities of the Applicant Company No. 1 and the scheme of amalgamation does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 1 and hence they will in no way be affected by the Scheme of Amalgamation. It is further submitted that the Applicant Company No.1 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 1 shall continue with its existence and shall accordingly continue to meet the liabilities of its unsecured creditors as they arise in the normal course.
23. However, this Bench directs the Applicant Company No.1 either to procure consent Affidavits of at least ninety percent of value of its Unsecured Creditors, as per Section 230(9) of the Companies Act, 2013 before filing of the Company Petition and annex the same with the Company Petition or to convene and hold the meeting of the Unsecured Creditors of the Applicant Company No. 1.
24. That there are 1013 (One Thousand and Thirteen) Unsecured Creditors having value of Rs. 81,69,80,660/- (Rupees Eighty-One

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Crore Sixty-Nine Lakhs Eighty Thousand Six Hundred and Sixty only) as on 31<sup>st</sup> March, 2023. The Counsel for the Applicant Company No. 2 submits that so far as Unsecured Creditors of the Applicant Company No. 2 are concerned most of them are in the nature of loan/sundry/trade creditors for activities of the Applicant Company No. 2 and the scheme of amalgamation does not envisage any compromise or arrangement with the Unsecured Creditors of the Applicant Company No. 2 and hence they will in no way be affected by the Scheme of Amalgamation. It is further submitted that the Applicant Company No.2 is meeting the amounts payable to its creditors from its activities and upon the Scheme becoming effective, the Applicant Company No. 2 shall continue with its existence and shall accordingly continue to meet the liabilities of its unsecured creditors as they arise in the normal course.

25. However, this Bench directs the Applicant Company No.2 either to procure consent Affidavits of at least ninety percent of value of its Unsecured Creditors, as per Section 230(9) of the Companies Act, 2013 before filing of the Company Petition and annex the same with the Company Petition or to convene and hold the meeting of the Unsecured Creditors of the Applicant Company No. 2.

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26. The Consideration is as follows:

Upon coming into effect of this Scheme and in consideration of the amalgamation of each of the Transferor Company in the Transferee Company, the Transferee Company shall, without any further application, act, instrument or deed, issue and allot to the respective equity shareholders of the Transferor Company whose names are recorded in the respective register of members as a member of the Transferor Company on the Record Date fully paid up equity shares, free and clear from all encumbrances together with all rights and benefits attaching thereto in the following ratio of:

“537 (Five Hundred Thirty Seven) equity shares of Rs. 5/- each (Rupees Five Only) fully paid up of the Transferee Company for Every 10 (Ten) equity shares of Rs. 100/- (Rupees One Hundred Only) each fully paid up held by the shareholders in the Transferor Company.” (“Share Exchange Ratio”)

27. The Applicant Companies to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director

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within 30 days of the date of receipt of the notice it will be presumed that Regional Director and/ or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

28. The Applicant Companies to serve the notice upon the Registrar of Companies, Mumbai, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules. 2016.
29. The Applicant Companies to serve the notice on the concerned Income Tax Authority within whose jurisdiction, The Applicant Company No. 1 and the Applicant Company No. 2. The Applicant Company's assessments are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.



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30. The Applicant Companies are directed to serve Notice by Registered Post AD/Speed Post/Courier and Hand Delivery to the concerned GST Authorities (if registered) as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the GST Authority within 30 days of the date of receipt of the notice it will be presumed that GST Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
31. The Transferor Company are also directed to serve intimations of the Scheme upon Official Liquidator, pursuant to section 230(5) of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no representation / response is received by the Tribunal from Official Liquidator, Bombay within a period of thirty days from the date of receipt of such notice, it will be presumed that Official Liquidator has no representation / objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
32. The Applicant Companies to serve the notice upon the Bombay Stock Exchange Limited, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, If no response is received by the Tribunal from the Bombay Stock Exchange Limited within 30 days of the date of receipt of the

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notice it will be presumed that Bombay Stock Exchange Limited has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules. 2016.

33. The Applicant Companies to serve the notice upon the National Stock Exchange Limited, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, If no response is received by the Tribunal from the National Stock Exchange Limited within 30 days of the date of receipt of the notice it will be presumed that National Stock Exchange Limited has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules. 2016
34. The Applicant Companies to file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
35. The Appointed Date is 1<sup>st</sup> January, 2023.
36. The Company Application C.A (CAA)237of 2023 is allowed.

**Sd/-**  
**ANIL RAJ CHELLAN**  
**MEMBER (TECHNICAL)**

**Sd/**  
**KULDIP KUMAR KAREER**  
**MEMBER (JUDICIAL)**



**NATIONAL COMPANY LAW TRIBUNAL**  
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50. CA 38/2024 in C.A.(CAA)/237(MB)2023

**CORAM:**

**SHRI ANIL RAJ CHELLAN**  
**HON'BLE MEMBER (T)**

**SHRI KULDIP KUMAR KAREER**  
**HON'BLE MEMBER (J)**

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 12.02.2024**

**NAME OF THE PARTIES:- Pious Engineering Private Limited**

**Section: Rule 11 of NCLT 230-232 of Companies Act, 2013**

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**ORDER**

**CA 38/2024:-** Counsel, Rajesh Shah appeared for the Applicant through VC. The present Company Application is filed seeking modification of para 8 (date and venue of the meeting of equity shareholders of the Applicant Company 2) and rectification of para 26 (the share exchange ratio) mentioned in the Order dated 08.01.2024 passed by this Tribunal in CA(CAA) 237/2023. It is observed that the venue of the meeting of equity holders is proposed to be changed to the registered office of the Applicant Company 2, and the swap ratio is also mistakenly mentioned in the said Order. Considering that the changes sought are on account of inadvertent and typographical mistake, we allow modification/rectification of para 8 and para 26 of the Order dated 08.01.2024 as under:

*“8. That the convening and holding the meeting of the Equity Shareholder of the Applicant Company No. 2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Merger by Amalgamation of PIOUS ENGINEERING PRIVATE LIMITED, the Transferor Company by INDO AMINES LIMITED, the Transferee Company shall be convened & held at **W-44, MIDC Phase II, MIDC, Dombivli East, Thane-421 003** on Wednesday, 21 st March, 2024 at 11.00 AM through video conferencing or other audio visual means.”*

**“26. 525 (Five Hundred Twenty-five) equity shares** of Rs. 5/- each (Rupees Five Only) fully paid up of the Transferee Company for Every 10 (Ten) equity shares of Rs. 100/- (Rupees One Hundred Only) each fully paid up held by the shareholders in the Transferor Company.” (“Share Exchange Ratio”).

Save and except the above changes, the Order dated 08.01.2024 remains unchanged. Accordingly, **CA 38 of 2024** is **allowed** and **disposed of** to the extent indicated above.

**Sd/-**  
**ANIL RAJ CHELLAN**  
**Member (Technical)**

*ANKIT*

**Sd/-**  
**KULDIP KUMAR KAREER**  
**Member (Judicial)**