

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.305
CA(CAA)/64(AHM)2025

Proceedings under Section 233 of Co.Act,2013

IN THE MATTER OF:

Andromeda Textiles And Trading Private Limited
Porus Textiles And Trading Private Limited
Introscope Propertiles Private Limited
Bijlee Textiles Private Limited
Rosekamal Textiles Private Limited
V/s
The Regional Director North west Regional Ministry Of
Corporate Affaris & Ors.

.....Applicant

.....Respondent

Order delivered on: 17/06/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

CA(CAA)/64(AHM)2025

[Company Application under Section 280 , 233 (6) & (7) read with other provisions of the Companies Act, 2013, Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016]

1. M/s. Andromeda Textiles and Trading Private Limited

(CIN: U17110GJ2005PTC045606)

Having its registered office at:

201-A, B-Block, International Trade Centre, Majura Gate, Ring Road, Surat, Gujarat, India, 395002

..... Applicant Company No. 1/ Transferee Company

2. M/s. Porus Textiles and Trading Private Limited

(CIN: U46411GJ2024PTC151047)

Having its registered office at:

Plot No. 1/494 to 496, 606 6th Floor, River Palace, Nanpura, Surat, Surat City, Gujarat, India, 395001

..... Applicant Company No. 2/ Transferor Company

3. M/s. Introscope Properties Private Limited

(CIN: U45200GJ1990PTC014658)

Having its registered office at:

Dr. Amichand Shah Wadi, Rampura Tunki, Surat, Gujarat, India, 395003

..... Applicant Company No. 3/ Transferor Company

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4. M/s. Bijlee Textiles Private Limited

(CIN: U51110GJ1985PLC013252)

Having its registered office at:

Dr. Amichand Shah Wadi,
Rampura Tunki, Surat, Gujarat,
India, 395003

..... Applicant Company No. 4/ Transferor Company

5. M/s. Rosekamal Textiles Private Limited

(CIN: U17114GJ1985PTC013257)

Having its registered office at:

Dr. Amichand Shah Wadi,
Rampura Tunki, Surat, Gujarat,
India, 395003

..... Applicant Company No. 5/ Transferor Company

Versus

1. The Regional Director

North Western Region

Ministry of Corporate Affairs

ROC Bhavan, Opp. Rupal Park

Near Ankush Bus Stand

Naranpura, Ahmedabad, Gujarat, 380013

... Respondent No. 1

2. The Registrar of Companies

ROC Bhavan, Opp. Rupal Park,

Near Ankur Bus Stand

Naranpura, Ahmedabad , Gujarat, 380013

... Respondent No. 2

3. The Official Liquidator

3rd Floor, Corporate Bhavan,

B/h Zydus Hospital,

Thaltej, Ahmedabad- 380059

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... Respondent No. 3

Order pronounced on 17.06.2026

Coram:

Mrs. Chitra Hankare, Member (Judicial)

Dr. Velamur G. Venkata Chalapathy, Member (Technical)

APPEARANCE:

For Applicants : Mr. Saurabh Soparkar, Sr. Adv and
Mr. Divyang Majmudar, PCA

For RD : Mr. Shivpal Singh

JUDGEMENT

1. The present application has been filed under Section 280, 233(6) & (7) of the Companies Act, 2013 (In Short "Act") r.w. Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (In Short "Amalgamation Rules") and Rule 11 of the National Company Law Tribunal Rules, 2016 (In Short "NCLT Rules,2016") jointly by the Applicant Companies viz. Andromeda Textile and Trading Private Limited (Applicant Company No. 1/ Transferee Company), Porus Textiles and Trading Private Limited (Applicant Company No. 2/ Transferor Company) , Interscope Properties Private Limited (Applicant Company No. 3/ Transferor Company) , Bijlee Textiles Private Limited

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(Applicant Company No. 4/ Transferor Company), and Rosekamal Textiles Private Limited (Applicant Company No. 5/ Transferor Company) seeking confirmation of the scheme. It is stated that all the Applicant Companies are having common promoters.

2. The Composite Scheme is structured in two sequential parts Part II-A and Part II-B. Part II-A, which takes effect first, provides for amalgamation of Porus Textiles and Trading Private Limited (Applicant Company No. 2/ Transferor Company- Holding Company) with the Andromeda Textiles (Applicant Company No. 1 / Transferee Company – 100% wholly owned subsidiary of Applicant Company No. 2) and upon completion, Andromeda Textiles and Trading Private Limited free from the proviso to Section 2(85) of the Act as it moves into the class of Small Company. Thereafter, Part II-B takes effect and when Part II-B operates, amalgamation of Applicant Company No. 3,4 and 5 with the Transferee Company (all small companies).

3. The Applicant Companies stated that the office of RD on 27.10.2025 while seeking resubmission of Form RD-1 wrongly noted that the application filed for merger of

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subsidiary company with holding company as well as between small companies is not maintainable and asked them to state the reasons why their application should not be rejected. The Applicant Companies resubmitted Form RD-1 on 05.11.2025 with the reply in response to the observation made by RD and within a period of only 2 days which is on 07.11.2025, the RD rejected the scheme with determination of not having jurisdiction to entertain the application along with the scheme.

4. The Applicant Companies stated that RD though considering the scheme is in the public interest and in the interest of the creditors has wrongly rejected the said application along with the scheme under the alleged reason that the combination of two or more small companies and between the holding company and subsidiary company is not admissible / eligible under section 233 under the jurisdiction of Regional Director.
5. The Applicant Companies stated that they had complied with the process and procedure as given in Section 233(1) (a), (b), (c), (d) and Section 233(2) of the Act and Amalgamation Rules and neither the office of ROC nor the

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office of Official Liquidator has observed any non-compliance with reference to the process and procedures followed by all the Companies with reference to applicable provisions of the law in regard to Fast Track Merger.

6. The RD had filed its affidavit –in-reply in compliance of the order dated 18.12.2025. In, reference to the marking of Form RD-1 filed by the Applicant Companies dated 13.09.2025 as Not to be taken on record by directorate, it is submitted by RD that the same was done because the applicants have presented a composite scheme of merger which includes merger of holding company with wholly – owned subsidiary as well as small companies which is not permissible under Section 233 of the Act. Section 233 of the Act only allows merger of two or more small companies, or a holding company and its wholly-owned subsidiary, or two or more start-up companies with one or more small companies. It is further stated that the directorate had not examined the merit of the case, as the present matter was not found admissible under Section 233 of the Act.
7. The RD states that Section 233(6) of the Act is triggered only when a scheme has been filed with RD under Section 233(2)

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following which RD examines it as a Section 233 scheme. RD then files application under Section 233(5) raising objections or some other person (creditor/shareholder) files objection after the scheme enters Section 233 process. Section 233(6) is not available when the RD refuses to even process scheme under Section 233 on account of maintainability. With regard to Section 280 of the Act, the RD has relied on notes on clause of the Companies bill and states that Section 280 of the Act only grants jurisdiction to the NCLT in matters arising out of or in relation to the winding up of a company, hence this application is not tenable. The RD further states that the company is resorting to Section 233(6) of the Act as a de-facto appeal mechanism against the decision of RD, without the statute providing about it. The Applicant was merely advised to pursue the matter before the appropriate forum under the correct provisions of the Act.

8. The RD states that legislative intent behind Section 233 of the Act is to facilitate fast-track approval only in cases involving straightforward transactions without complexity, and inter-dependent restructuring steps. The scheme under

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consideration is composite in nature involving multiple interconnected transactions, restructuring steps into a single unified plan and this scheme by its very nature goes beyond the scope and ambit of Section 233 of the Act. In, respect of reliance placed upon the observations of the Irani Committee by the Applicants, the RD states that Committee's recommendations were broad policy considerations aimed at guiding legislative reform and cannot override the express provisions of the statute. Merely being a small private company or having family - held shareholding does not entitle the scheme to fast track treatment unless statutory conditions under Section 233 of the Act are satisfied.

9. The RD states that present scheme is required to be routed through the regular merger process under Section 230 to Section 232 of the Act. The Hon'ble Finance Minister's budget speech does not override statutory procedure.
10. The RD relies on the judgment of Hon'ble Supreme Court in the matter of Union of India Vs Ind. Swift Laboratories Limited (2011) 4 SCC 635 wherein it was held that where the language of statute is clear and unambiguous, the

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courts are not empowered to substitute the word 'or' with 'and' on consideration of fairness. The objections from ROC or OL does not create any binding obligation upon the office of RD to approve the scheme. Reliance placed by the applicant companies on the Order passed by the Hon'ble NCLT Hyderabad Bench in CP(CAA) No. 66/HDB/2023 is wholly misconceived and misplaced.

11. The Applicant Companies in its rejoinder states that if the office of RD was of the view that scheme was not admissible then next course of action available with him was to refer the matter to this Tribunal under Section 233(5) of the Act, instead of rejecting the said scheme. Form CAA-11 was submitted to the RD on 13.09.2025 and therefore on conclusion arrived at by the RD on 07.11.2025 the Application was not admissible or maintainable, RD was required to file the application to NCLT on or before expiry of 60 days i.e. 12.11.2025 for adjudication on the issue of alleged rejection on the ground of non-admissibility or non-maintainability, which the RD did not do. On 05.11.2025 RD was also aware of the order dated 10.11.2023 of the NCLT - Hyderabad Bench in the matter of CP (CAA) No.

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66/HDB/ 2023 and CA (CAA) 58/HDB /2023, as the copy of the said order dated was annexed separately with Form CAA-11 and Form RD-1.

12. The Applicant Companies submit that they have entered the process of section 233 of the Act at the very stage when the notice of the proposed scheme inviting the objection or suggestions from the ROC and OL under section 233 (1) (a) was issued by the Applicant Companies on 22.07.2025. Section 280 (c) of the Act confers jurisdiction on this Tribunal with reference to matters arising under Section 233 of the Act. It is further stated that applicants are not availing any order but are invoking the jurisdiction of this tribunal under Section 233(6) and Section 280 (c) of the Act. Reliance on Irani' s Committee report and budget speech of Hon'ble Finance Minister is cited only to demonstrate the legislative intent and policy purpose behind Section 233 of the Act. Legislative history and policy documents are admissible aids to statutory construction.
13. The Applicant Companies stated that press release issued by the MCA carried the significant persuasive value and

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represented the government's own understanding of the statute it administers.

14. The Applicant Companies had relied on following Judgments :-

- a) *Civil Appeal No. 3142 -3143 of 1999 etc. between J. Jayalalitha Vs. Union of India and Ors. passed by Hon'ble Supreme Court of India.*
- b) *CP(CAA) No. 66/HDB/2023 and CA(CAA) 58/HDB/2023, In the matter of Scheme of Composite Arrangement of Deepak Power & Telecommunications Private Limited and Ors. passed by Hon'ble NCLT, Hyderabad Bench.*
- c) *Asset Auto India Pvt. Ltd Vs. Union of India, (2024) 251 Comp Case 62 passed by Hon'ble Bombay High Court.*
- d) *Criminal Appeal No. 190 and 191 of 1965 between Ishwar Singh Bindra and Others Vs. State of UP passed by Hon'ble Supreme Court of India.*

15. The RD had relied on following Judgments :-

- a) *Union of India Vs Ind-Swift Laboratories Limited (2011) 4 SCC 635.*
- b) *Nathi Devi Vs Radha Devi Gupta 2005 (2) SCC 271.*

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16. The written submissions filed by all the parties have been perused along with the Judgments filed by the Applicant and Respondent No. 1 and also heard both the counsels.

17. **Observations & Conclusions:**

- a) The scheme envisages an approval by this authority for approval under Sec 280 & 233(6) and Rule 11 of NCLT Rules 2016, seeking confirmation of the Scheme proposed by the Applicants whereby the Applicant No.2, No.3, No.4, having common directors and shareholders under Sec 233(1)(a),(b),(c),(d) and Sec 233(2) of the Companies Act 2013. The forms submitted for approval under the relevant scheme to the Regional Director stating to have complied with the requirements were rejected by the RD and hence the applicants have filed this application under Sec 280 and Sec 233(6) of the Act and Rule 11 of NCLT Rules 2016.
- b) The scheme proposed was rejected/returned on the ground (eligibility/admissibility) that u/s 233(1) of the Act read with Rule 25 of Amalgamation Rules, RD observed vide letter dated 7.11.2025 that “combination of two or more small companies and between a holding company and its wholly

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- owned subsidiary company is not admissible u/s233 (Fast Track Merger) under the jurisdiction of the RD”.
- c) We observe from the detailed affidavit reply submitted on 17 March 2026 by the RD to this tribunal on issue of notice to the applicant’s scheme, that the relevant forms submitted were taken on record as the “applicants have presented a composite scheme which includes merger of holding company with wholly owned subsidiary company as well as small companies is not permissible under Sec 233 of the Companies Act. The Act explicitly provides for a fast track merger scheme to be submitted to the RD under Sec 233 (1) which states as : “Notwithstanding the provisions of Sec 230 and Sec 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class of companies as may be prescribed, subject to the following,”
- d) We observe from the scheme which is rejected under fast track by the RD apparently has interpreted the provisions for giving an approval as the petitioner/s have proposed a scheme of a merger with the transferee company (Applicant

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No.1) which is a wholly owned subsidiary of Applicant No.2 and the applicants submit that the entire shareholding of Applicant No.2 and Applicant No.3 are collectively held by Mr Praful Shah, wife Mrs Shilpa Shah and his two sons and 99.65 % of the shareholding of Applicant No.4 and 99.83% of the shares are held by the same family as mentioned of the family of Mr Praful Shah. We have also perused the letter of RD dated 7.11.2025. The RD has based on the relevant provisions questioned the maintainability of the petition as the scheme gets disqualified under Sec 233(6) and hence does not give an opportunity to file this application under Sec 280 as the Tribunal, due to non-maintainability under Fast track lacks its jurisdiction. A de-facto approval mechanism on a rejection of the scheme by RD as the provisions only allows an approval if "The central government does not have any objection to the scheme or it does not file any application under this section before the tribunal, it shall be deemed it has no objection to the scheme".

- e) The RD has not filed any application separately, but on issue of notice raised these objections and has cited the

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Hon'ble Supreme Court judgment in Amar Nath Dogra vs Union of India (1963). The RD has further observed to have not considered the scheme and given liberty to submit a fresh scheme before the appellate authority in accordance with law, which implies it could be under Sec 230-232 of the companies Act and the remarks and observation are NTBR (Not to be taken on record) which is procedural in nature. The scheme proposes a multiple action in the plan and not as specified in the relevant act provisions Sec 233(6) of Companies Act.

- f) We observe from the submissions, rejoinder and written submissions that the applicant has proposed a complex scheme, even if we assume that in the smaller companies (Applicant 3-5) have common share holding, there is no submissions or documents evidencing whether all the companies come under the same structure as holding and subsidiaries to come through a common scheme for fast track approval, intention for such merger does not appear to be satisfactory and hence does not comply with the relevant provisions and needs an appropriate application before this tribunal than the application filed before the RD under Sec

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233(6) which is not taken on record and reverted back to the applicant/s. Hence the scheme is not eligible to be filed under Sec 280 of Companies Act. The applicant/s can pursue the scheme further before this tribunal under the relevant provisions of Merger or Amalgamation under Companies Act for which liberty is not denied.

18. In view of the above we pass the following :

ORDER

CA (CAA) No. 64 of 2025 is rejected and disposed of.


DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)


CHITRA HANKARE
MEMBER (JUDICIAL)

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