

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-I

C.P. (C.A.A)/104 (MB) 2025

IN

C.A.(C.A.A)/65 (MB) 2025

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

AND

In the matter of National Spot Exchange Limited And its Specified Creditors

NATIONAL SPOT EXCHANGE LIMITED

CIN: U51100MH2005PLC153384,

a company incorporated under the provisions of the Companies Act, 1956 and an existing company under the Companies Act, 2013, having its registered office at Malkani Chambers Condominium, 1st Floor, Off. Nehru Road, Near Hotel Orchid; Vile Parle (East), Mumbai - 400099.

.... Petitioner Company

AND THEIR RESPECTIVE CREDITORS.

Order Pronounced on 28.11.2025

Coram :

Shri Prabhat Kumar

Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey

Hon'ble Member (Judicial)

Appearances :

For the Petitioner	:	Senior Advocate Janak Dwarakadas a/w Adv. Rohit Gupta, Adv. Hemant Sethi, Adv. Arvind Lakhawat, Adv. Manik Joshi, Adv. Mantul Bajpai, Adv. Vrushabh Vig and Adv. Vikrant Nalavade
For NSEL Investors Forum	:	Senior Counsel Chetan Kapadia a/w Rahul Sarda
For 63 Moons	:	Senior Counsel Vikram Nankani a/w Adv. Amol Bavare, Mr. Krishnan Iyer
For the Enforcement Directorate	:	Adv. Piyush Pande a/w Adv. Neha Bhide
For Competent Authority, NSEL and Investigating Officer, EOW	:	Sr. Counsel Shyam Mehta a/w Adv. Abhishek Karnik, Adv. Mahadeo Kirwale
For MPID	:	Sr. Adv. Shyam Mehta a/w Adv. Abhishek Karnik
For the Regional Director (Western Region)	:	Company Prosecutor Gaurav Jaiswal
For Bank of Maharashtra	:	Adv. Arti Singh, Adv. Aakashdeep Singh Roda.
For L.J. Tanna Enterprises	:	Adv. Nausher Kohli, Adv. Jehan Fouzdar, Adv. Antara Kalambi
For Pico Capital Pvt. Ltd.	:	Adv. Kunal Mehta a/w Adv. Hamza Lakhani, Nikhant Chaudhary

For Nirtex Exports and Investments Pvt. Ltd. : Adv. Piyush Raheja a/w Adv. Bhuvan Singh

For Geojit Credits Pvt. Ltd. : Adv. Chirag Shah a/w Adv. Mayank Mishra, Adv. Akshata Bhogle

For Lotus Refinery Pvt. Ltd. : Adv. Shreyash Chaturvedi

ORDER

1. The present petition seeks sanction of the Composite Scheme of Arrangement between NATIONAL SPOT EXCHANGE LIMITED having CIN : U51100MH2005PLC153384 (“**Petitioner Company/ NSEL**”) and their Respective Creditors from this Tribunal under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and the rules and regulations made thereunder, further seeking relief as under:
 - a. *That this Tribunal be pleased to sanction the Scheme of Arrangement between National Spot Exchange Limited and its Specified Creditors under Sections 230 and other applicable provisions of the Companies Act, 2013 and declare the same to be binding on both the Petitioner Company and all its Specified Creditors;*
 - b. *Liberty be granted to the Petitioner Company to file the Satisfaction of Conditions Affidavit before this Hon'ble Tribunal as contemplated in Clause 17.1 of the Scheme;*
 - c. *Liberty be granted to the Petitioner Company to apply to this Hon'ble Tribunal in the above matter for any direction that may be necessary.*
2. The Petitioner Company was incorporated on **18th May 2005** as a Public Limited Company. The authorised share capital of the Company as on 31st

March 2024 is Rs. 4,60,00,00,000/- (Rupees Four Hundred and Sixty Crores only). The issued, subscribed and paid-up capital of NSEL as on 30th September 2024 is Rs. 3,59,47,90,540/- (Rupees Three Hundred Fifty-Nine Crores Forty-Seven Lakhs Ninety Thousand Five Hundred Forty only). In total 35,94,78,954 equity shares are held by 63 moons technologies ltd. (“**63 moons**”) along with its nominees constituting 99.99% of the paid-up capital of NSEL. 63 moons is a public listed company incorporated under the 1956 Act. The Petitioner Company operated an electronic exchange platform for commodity trading. A Gazette Notification dated 05th June 2007 exempted "forward contracts of one-day duration" on Petitioner Company's platform from Forward Contract Regulations Act, 1952 provisions subject to conditions. Petitioner Company framed its Byelaws and Rules accordingly, and trading commenced in October 2008.

Facts leading to Proposed Scheme of settlement

3. The Department of Consumer Affairs (“**DCA**”) dated 12th July 2013, instructed NSEL to suspend all forward contracts and to ensure that all existing contracts were settled as per their due dates. Consequent to this regulatory instruction, NSEL announced the closure of trading in all paired contracts with effect from **31st July 2013**. As a result of this default by the 24 Members of NSEL, there was a failure in making pay-outs to their counter-party Members of NSEL/ Brokers, resulting in a payment default of about Rs. 5,402.71 Crores towards the traders.
4. The purported payment defaults on the NSEL platform in **August 2013**, led to widespread litigation involving multiple stakeholders, including traders, brokers, and Petitioner Company's parent company, 63 moons. The traders, who suffered financial losses due to the default, have ongoing claims that remain disputed, particularly by the Petitioner Company, 63

moons, and associated entities. Litigation proceedings have remained pending for more than 11 years.

5. A committee appointed by NSEL had found that the Payment Default occurred due to the connivance of some of the employees of . NSEL with the Defaulters and the Defaulters' Associates by deviating from the Rules, Bye-Laws and Regulations of NSEL which were otherwise in place. NSEL had therefore filed a complaint with the EOW. The reason for the Payment Default is otherwise a subject matter of dispute inter alia between the Traders, Brokers, Defaulters and 63 moons' Group.
6. Soon thereafter, 2 out of the 24 Members of NSEL who defaulted in honouring their respective pay-in obligations as stated above, paid the amounts due from them and the balance 22 failed to honour their payment commitment. These 22 Members of NSEL were declared as 'defaulters' in terms of NSEL s rules and bye-laws.
7. The Payment Default led to the initiation of several civil and criminal proceedings by the Traders and by the authorities inter alia against NSEL, the Defaulters, Persons in the 63 moons Group, the Brokers and their directors and officers, including proceedings under the MPID Act, the PMLA, Companies Act, 1956 etc. Several legal proceedings for recovery of claims of the Traders were initiated. These can be divided into following broad categories :

A. Proceedings by NSEL against Defaulters and Defaulters' Associates :

- i. Third Party Notices, Commercial Suits and Arbitration Proceedings;
- ii. Cases under Section 138 of the Negotiable Instruments Act, 1881;

iii. Proceedings before the High Court Committee for crystallization of liabilities of Defaulters and Defaulters' Associates;

iv. Execution Proceedings before the Supreme Court Committee.

B. Proceedings by Traders against Persons in 63 moons Group and Brokers and Brokers Associates :

i. Civil Suits filed in Bombay High Court and any other civil court.

C. Proceedings by Appropriate Authorities :

i. Notifications issued by State of Maharashtra under Section 4 of the MPID Act attaching properties of the Persons in 63 moons Group, Defaulters, Defaulters' Associates and Brokers and Proceedings initiated by the Competent Authority for making such attachment of properties absolute and for liquidation and distribution to the Traders;

ii. Proceedings filed by the SFIO pursuant to Sections 241, 246 read with 339 of the Companies Act, 2013 against Persons in the 63 moons Group;

iii. The Central Government, through the MCA had initiated proceedings being Company Petition No. 1 of 2015 before the Company Law Board, inter alia, under Section 397-398 of the 1956 Act against 63 moons and its directors. One of the stated objectives of the said proceedings was to expedite the recovery process and settle the dues of the creditors of the Company.

iv. Attachment Proceedings under Section 5 of the PMLA against 63 moons, Defaulters, Defaulters' Associates and Brokers

- D. Criminal Proceedings :** Criminal proceedings, inter alia under the provisions of the Indian Penal Code, 1860, PMLA, MPID Act, 1956 Act and the Act have been initiated against Persons in 63 moons Group, Brokers certain directors of the Brokers, Brokers' Associates, Defaulters and Defaulters Associates at Mumbai, Delhi and Rajasthan. Investigations by EOW Mumbai, EOW Delhi, Enforcement Directorate, Central Bureau of Investigation and SFIO do not reveal any money trail to Persons in the 63 moons Group in respect of the Payment Default. Investigations in each of these matters is complete and the final chargesheets / reports have been filed before the Appropriate Authorities, except in case of Enforcement Directorate where investigation qua some of the Brokers, Defaulters and Defaulters' Associates is still going-on.
8. It is stated that, upon default, NSEL constituted an internal Settlement Guarantee Fund (“SGF”) to manage limited pay outs and simultaneously announced a Structured Settlement Plan on 14th August 2013, proposing staggered weekly payments over a period of 30 weeks, however, despite multiple extensions and modifications, only a marginal fraction of dues were recovered due to widespread non-availability of underlying commodities, which were later found to be either non-existent or grossly overstated in warehouse receipts.
9. It is stated that the claims of Traders who had receivables in respect of their trades up to Rs. 10 lakhs have been settled from time to time and have been fully paid; and the Competent Authority has made part payments from amounts recovered from the Defaulters and Defaulters' Associates to Specified Creditors having claims between Rs. 10 lakhs to Rs. 20 lakhs as per MPID Court Orders.
10. It is further stated that, NIF, as a representative of the Specified Creditors (as defined in the Scheme), Petitioner Company and 63 moons came

together to find a solution to ensure substantial resolution of the outstanding dues of the Specified Creditors through the mechanism of the present Scheme.

11. Pursuant to the deliberations, vide its letter dated 13th December 2024 to the Petitioner Company, NIF provided data regarding the poll arranged by it, a one-time settlement (“OTS”) proposal amounting to Rs. 1,950 crores were agreed upon to be distributed among the Specified Creditors on a pro-rata basis, without preferential treatment. The said proposal received substantial approval, with 3,088 Specified Creditors/ investors (denoting value of claims of Rs. 2951.85 crores) representing **64.11%** of the outstanding claims consenting to the settlement through an online voting process. The details of voting are represented below:

	Count of Investors	Amt in Crs
Total unpaid Investors	: 5682	4,603.71
Total Investors who participated in OTS	: 3346	3,092.54
Less: - Investors who have given their dissent to the OTS	: 123	42.97
Less: - Investors who have withdrawn their consent to the OTS	: 119	89.61
Less: - Investors who have neither given their consent nor dissent	: 16	8.11
Total Consents received on the OTS	: 3088	2,951.85

12. The Boards of Directors of the Petitioner Company and 63 Moons approved the Scheme on **18th February 2025**, thereby formalizing their participation and financial commitment under the terms of the Scheme.

Salient Features of Proposed Scheme

13. The present scheme is for the settlement of Specified Creditors' Claims only. The total numbers of Specified Creditors as per the records of NSEL are 5682 and the value of Specified Creditors' Claims are estimated at Rs. 4607.65 crores.
14. The “Specified Creditors” are defined in Part I of the proposed scheme to mean “*Traders whose outstanding amounts in August 2013 were in excess*”

of Rs. 10 lakhs as referred in Schedule III and shall include their respective successors and assigns”.

15. The Appointed Date shall be the date on which the Scheme is approved by the Tribunal. The date on which the last of all the conditions stipulated in Clause 14 of the Proposed Scheme is fulfilled, shall be construed as the Effective Date, unless any of the conditions is duly waived by 63 moons in its sole discretion. Clause 14.8.2 of the Scheme provides for following conditions necessarily to be fulfilled :

- a. The Supreme Court Committee to transfer the entire amount recovered by it till the Appointed Date in connection with the Payment Default to the Settlement Account;*
- b. Orders being passed confirming that all recoveries by the Supreme Court Committee after the Settlement Trigger Event shall ensure solely for the benefit of 63 moons as assignee of Specified Creditors' Claims.*

16. The scheme proposes an aggregate amount of Rs.19,50,00,00,000/- (i.e. Rupees One thousand nine hundred and fifty crores only) towards full and final satisfaction of claims of specified creditors and provides for payout mechanism in Schedule VIII of the Scheme. The specified creditor's claims is defined to *mean and includes all rights and monetary claims of the Specified Creditors including, without any limitation, any claims that the Specified Creditors have or may have pursuant to the Applicable Law, directly or indirectly arising from, or relating to, the Payment Default and/or trades carried out on the exchange platform of NSEL whether against the Persons in 63 moons Group or any other Persons, including against the Brokers and Brokers' Associates, and shall include claims that the Specified Creditors are entitled to or may be entitled to, from the recoveries made or which may be made pursuant to:-*

- a. *a. the provisions of the MPID Act in MPID Special Case No. 1 of 2014;*
 - b. *the provisions of the PMLA in ECIR No. MZO/ECIR/14 of 2013;*
 - c. *suits filed by the Specified Creditors (directly or in representative capacity) against Persons in the 63 moons Group;*
 - d. *suits filed by some of the Specified Creditors against certain Brokers and Brokers' Associates;*
 - e. *proceedings before the Supreme Court Committee;*
 - f. *proceedings before the High Court Committee;*
 - g. *Third Party Notices filed by NSEL in Suit No.173 of2014 before the Bombay High Court;*
 - h. *Commercial Suit No. 126 of 2021 filed by NSEL against NK Proteins and others before the Hon'ble Bombay High Court; and*
 - i. *proceedings initiated or may be initiated by the SFIO/ MCA under the provisions of the Act;*
17. The Scheme contemplates withdrawal of all cases against the petitioner company, 63 moons and specified persons filed by specified creditors; release of attached properties; deposit of settlement amount in an escrow account with a schedule bank by escrow agent (*Universal Trusteeship Services Limited*) under the supervision, guidance, control and direction of the Monitoring Authority (*Justice S.C. Gupte (retd.)*, a former judge of the *Hon'ble Bombay High Court*); distribution of settlement amount to specified creditors; contribution by consenting brokers the amount of brokerage earned by them as certified by their respective Statutory Auditors in respect of trades carried out by them on behalf of their clients on the exchange platform of NSEL; release and discharge of liabilities of

all persons in 63 moon group (*63 moons, NSEL, IBMA and persons mentioned in Schedule I*) from specified creditor's claims; release and discharge of liabilities of consenting brokers from specified creditor's & 63 moon group's claims; assignment of all specified creditors' claims in 63 moons group; and Deposit of monies received after the Settlement Trigger Event to account of 63 moons group.

Rationale for the Proposed Scheme

18. The Petitioner Company submits that the Rationale for, and Benefits of, the Scheme are as under:
 - a. The Specified Creditors are Traders (as defined in the Scheme) whose outstanding amounts in August 2013 were in excess of Rs.10 lakhs as referred to in Schedule III of the Scheme. The Scheme is in the interest of the Specified Creditors having regard to the fact that more than 11 years have elapsed since the Payment Default and despite efforts by all parties concerned, the matter has not been resolved for the Specified Creditors. The one-time settlement would result in the Specified Creditors receiving money within a finite period of time. It has, therefore, been thought fit to initiate the present proceedings to arrive at and implement a one-time settlement for the Specified Creditors' Claims.
 - b. The Scheme states that the claims of Traders whose outstanding amounts were less than Rs.10 lakhs in August, 2013 have already been settled as set out in the Scheme.
 - c. In so far as the Petitioner Company is concerned, the Scheme would result in closure of various legal proceedings against it and a release and discharge of liabilities from the Specified Creditors' Claims and removal of restraints in dealing with its properties.

- d. For 63 moons, in addition to closure of various legal proceedings and release and discharge of liabilities from the Specified Creditors' Claims, the Scheme entails an assignment of the Specified Creditors' Claims to 63 moons and removal of restraints in dealing with its properties.

Approval of Scheme by Specified Creditors

19. Pursuant to the directions issued by this Tribunal vide Order dated 08th April 2025 in C.A. (CAA)/65(MB)2025, a meeting of the Specified Creditors of the Petitioner Company was duly convened and conducted through postal ballot and e-voting between 17th April 2025 and 17th May 2025. The Scrutinizer's Report, filed before this Tribunal on 19th May 2025, evidences that the Scheme of Arrangement was approved by the requisite majority of the Specified Creditors in accordance with the provisions of Section 230 of the Companies Act, 2013, thereby signifying due compliance with all procedural and statutory requirements.
20. The Chairperson filed his report of voting before this Tribunal on 19th May 2025 annexing the copy of Scrutinizer's report as on the same date which informed the result of voting as follows:

15. The voting through electronic means (e-voting) commenced on 17.04.2025 at 9:00 am (IST) and concluded on 17.05.2025 at 11:00 pm (IST). The Scrutinizer vide his report dated 19.05.2025 informed the result of voting which is as follows:

Voting in Favour / Against	Number of Specified Creditors	% of Specified Creditors	Total Amount of Claim of Specified Creditors	% of Amount of Claim of Specified Creditors
In favour of the Resolution	3613	92.81%	34,58,93,94,489	91.35%
Against the Resolution	280	7.19%	3,27,42,90,109	8.65%
Total	3893	100%	37,86,36,84,598	100%

21. The outstanding amount due to specified creditors as of 31st July 2024 is assumed to be Rs. 4,650 Crores, subject to reconciliation, and the proposed scheme guarantees a pay out of minimum 41.94% of claim of each of specified creditors and an additional pay out, if the final reconciled amount falls below the said amount.

Submissions of Intervenors & Statutory Authorities and Petitioner, 68 Moons & NIF

22. Ld. Counsel for 63 Moons supported the made submissions in support of the scheme and emphasized that the Specified Creditors shall be receiving their dues to the extent of 41.94% of their respective claims and avoid protracted litigations for recovery of their dues. Even though, 63 Moons has limited obligations to settle the dues of Specified Creditors, however, it being its holding company considered it appropriate in the interest of Specified Creditors and other stakeholders to settle dues in the manner as specifically provided in the scheme by contributing to the settlement money in the form of their assets attached by MPID, though such attachment may not stand the judicial scrutiny finally. It was also emphasised that the Specified Creditors' Claims are awaiting for the recovery since 12 years since the payment default and could not get much despite expiry of such long period, while the Scheme contemplates payment of 41% approx. of their claim to them.
23. Ld. Counsel appearing for the NSEL Investor Forum ("NIF") has filed an affidavit as on 15th September 2025 to submit the considered position of the National Investor Forum (NIF) in unequivocal support of the proposed Scheme of Arrangement, which, if sanctioned, shall ensure substantial recovery to the specified creditors and end a dispute that has persisted unresolved for over twelve years. It is submitted that despite NSEL's bona fide efforts having already disbursed 100% of dues to over 600 traders with claims below Rs.2 lakhs and 50% of dues to approximately 6,450 traders

with claims between Rs.2 to Rs.10 lakhs no meaningful recoveries have thereafter been effected, even though decrees and awards aggregating to about Rs.4,294 crores have been passed against defaulters. It is further stated by NIF that the Scheme accomplishes what prolonged litigation could not certainty, finality, and restitution to the investors through a lawful, organized, and transparent process, accordingly, NIF prayed in favour of the passing of this scheme by this Tribunal.

24. It was further contended by Ld. Counsel for NIF that the MPID Court, by its order dated 13th October 2022, directed that the sale proceeds realised from the attached assets under the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (“**MPID Act**”) in relation to the NSEL default shall be distributed in a graded and equitable manner amongst the investors and depositors. The order provides that investors with smaller claims, particularly those falling between Rs. 10 lakhs and Rs. 20 lakhs, shall be accorded priority in such distribution to ensure fair restitution. The MPID Court further directed that the process of liquidation, sale, and distribution of proceeds shall remain under the supervision and control of the Competent Authority and the Designated Court constituted under the MPID Act, thereby ensuring compliance with statutory safeguards and judicial oversight. It is evident from the said order that the object of the MPID proceedings is to achieve equitable recovery for the affected investors within the framework of law, without disturbing parallel civil or criminal proceedings pending before other competent forums.
25. The Intervenors have raised certain objections on various technical and legal aspects of the Scheme. The Tribunal, having considered the same, deems it appropriate to examine these objections in so far as such objections pertain to alleged illegality or its prejudice to the public interest or policy.

25.1. Ld. Counsel for Enforcement Directorate (“ED”) appeared before the Tribunal and stated that the ED objected to the Scheme, alleging that it aims to cleanse liabilities and attached assets under the PMLA and MPID Acts, disturb criminal cases, and undermine the Supreme Court-appointed Committee. In response, the Ld. Counsel for Petitioner Company clarified that the Scheme is a lawful, commercial settlement approved by a large creditor majority, which neither affects criminal proceedings nor violates any court orders. It stated that use of attached assets will occur only with approval from competent courts and that the Scheme complements, rather than contradicts, the Supreme Court’s directions.

25.2. Ld. Counsel for Chief Investigating Officer, SIT NSEL, EOW, Mumbai (“EOW”) appeared before the Tribunal and stated that the Deputy Collector/Competent Authority under the MPID Act and the Chief Investigating Officer, EOW, Mumbai, have objected that the Scheme contravenes prior judicial directions, including the MPID Court’s order dated 13th October 2022 and the Supreme Court’s order dated 04th May 2022 constituting the Committee under Justice Pradeep Nandrajog (Retd.). The Ld. Counsel for Petitioner Company, in response, has clarified that the Scheme neither conflicts with nor derogates from any order of the MPID Court, the Hon’ble Bombay High Court, or the Hon’ble Supreme Court. It is stated that the order of 13th October 2022 merely directs graded distribution of sale proceeds of defaulters’ attached properties under the MPID Act and does not preclude creditors from entering a civil compromise under Section 230. The Petitioner points out that the very creditors forming the Rs. 10-20 lakh category at whose instance that order was passed have themselves voted in favour of the Scheme. The Scheme, it is argued, operates independently of criminal proceedings, which remain unaffected, and its provisions expressly recognise the

functioning of the Supreme Court Committee and the Competent Authority by ensuring that recoveries realised thereunder shall ensure to 63 Moons Technologies Ltd. as assignee of creditors' claims after the Settlement Trigger Event.

25.3. Ld. Sr. Counsel for Serious Fraud Investigation Office (“SFIO”) objected to the proposed scheme stating that:

- (i) its pending proceedings under Sections 241, 246 and 339 of the Companies Act seek restitution to creditors,
- (ii) approval of the Scheme would impede those proceedings and exceed the jurisdiction under Section 230, and
- (iii) the Scheme purports to affect ongoing civil and criminal actions against related entities.

The Ld. Counsel for the Petitioner clarified that the Scheme does not, and cannot, withdraw or quash any criminal prosecutions or statutory proceedings; it merely contemplates that, after full settlement, appropriate applications may be made before competent forums for closure, subject to their discretion. The Petitioner distinguished the precedents relied upon by SFIO, asserting that cases such as *UOI v. Gitanjali Gems Ltd., and UOI v. Deloitte Haskins & Sells LLP* concerned preventive or disciplinary actions, not sanction of a civil compromise.

25.4. Ld. Counsel for Nirtex Exports and Investment Private Limited, the applicant in an Intervention Petition No. 7/MB/2025 seeking their impleadment in the Company Petition were also heard pending their impleadment in the interest of time. It was submitted by him that while they do not oppose the Scheme in entirety, they specifically challenge those clauses which provide an unconditional release or discharge to the “Consenting Brokers” from all claims of the

Specified Creditors and the consequential transfer of such claims to 63 Moons after the Settlement Trigger Event. They submit that these provisions are illegal, contrary to law, against public policy, and prejudicial to the rights of investors who have pending suits against the brokers before the Hon'ble Bombay High Court for wrongful trades and related recoveries amounting to Rs. 1,72,62,74,369/-. The Applicants argue that the proposed release of brokers amounts to curtailing their legitimate legal remedies and that the Tribunal must ensure the Scheme does not defeat the lawful claims of creditors.

In response to that, the Ld. Counsel for the Petitioner Company contended that the Application is not maintainable under Section 230(4) of the Companies Act, 2013, as the Applicants collectively hold only 0.749% of the total outstanding debt of Rs. 4,650 crores, below the statutory 5% threshold, thereby lacking locus standi. It was further argued that the Scheme, approved by over 91% in value and 92% in number of creditors, validly provides for conditional release of Consenting Brokers upon contribution, lawful assignment of creditor claims to 63 Moons under Section 130 of the Transfer of Property Act, and does not extend discharge to non-consenting brokers. The Respondent submitted that the reliefs sought are vague and attempt to delete essential clauses forming the Scheme's structure, which cannot be modified or rewritten by the Tribunal, whose role is supervisory. It was finally stated that, upon assignment of claims to 63 Moons post-settlement, the Applicants cease to have locus or independent rights to litigate on the same cause of action, and any such attempt amounts to double recovery and unjust enrichment.

25.5. Ld. Counsel for Pico Capital Private Limited, the applicant in an Intervention Petition No. 11/MB/2025, submitted that the settlement amount of Rs. 1,950 crores is arbitrary, insufficient, and without a

clear basis. The Ld. Counsel for Petitioner clarified that the amount was arrived at through commercial assessment and approved by an overwhelming statutory majority of creditors, and hence, cannot be reappraised by the Tribunal in the absence of illegality or fraud.

It is further contended by Pico that the Scheme lacks clarity regarding payment timelines, interest, security, and a default mechanism. The Ld. Counsel for Petitioner clarified that the Scheme provides a defined structure linked to the Settlement Trigger Event and ensures distribution through a transparent and time-bound process, with appropriate judicial supervision where required.

The Ld. Counsel for Pico also argued that the Scheme unlawfully releases NSEL, 63 Moons, and brokers from criminal and civil liabilities, which is contrary to public policy and relied upon decision in case of *Union Carbide Corporation and Others V. Union of India and Others (1991) 4 Supreme Court Cases 584*, wherein the Hon'ble Supreme Court observed the decision in *V. Narasimha Raju (1963) 3 SCR 687* which held that

“The principle underlying the provision is obvious. Once the machinery of the Criminal Law is set into motion on the allegation that a non-compoundable offence has been committed, it is for the criminal courts and criminal courts alone to deal with that allegation and to decide whether the offence alleged has in fact been committed or not. The decision of this question cannot either directly or indirectly be taken out of the hands of criminal courts and dealt with by private individuals.”

The Ld. Counsel for the Petitioner clarified that the Scheme only settles civil monetary claims and does not extinguish or interfere with

any criminal liability, with all proceedings under the PMLA and MPID Acts continuing independently before competent forums.

The Ld. Counsel for Pico lastly claimed that the voting for the Scheme was defective as government authorities were not part of it and that its approval is incomplete. The Ld. Counsel for the Petitioner submitted that only Specified Creditors were entitled to vote under Section 230 and that the Scheme, having been approved by over 90% in value and number, is binding on all creditors. The Ld. Counsel for Petitioner further submitted that Pico's objection is misconceived, below the 5% threshold under Section 230(4), and is intended merely to delay a fair, lawful, and creditor-approved settlement process.

25.6. The Intervention Petition No. 8/MB/2025 filed by Bank of Maharashtra ("BOM") was disposed of in terms of order dated 30th September 2025 passed in the present company petition after recording the clarification made by Ld. Counsel for the Petitioner.

25.7. Initially, L.J. Tanna Enterprise Pvt. Ltd., one of specified creditor, had filed an Intervention Petition No. 5/2025 in C.A.(CAA)/65(MB)2025 objecting to the admission of scheme contending the proposed Scheme as unconscionable, contrary to public policy, mala fide, fraudulent, and beyond the Tribunal's jurisdiction. This Intervention Application was dismissed vide common order dated 25th April 2025 allowing admission of First motion holding that the objections of the Intervenor are premature at this stage and cannot be considered de hors the comments of Competent Authority under MPID Act, SFIO and ED, however, it was clarified in the said order that "*the dissenting financial creditors, if any, shall be at liberty to object to the scheme on these issues at final hearing subject to them meeting the prescribed threshold, unless dispensed with by us for cogent reasons*".

Accordingly, L.J. Tanna Enterprises Pvt. Ltd. & Ors., having aggregate outstanding claim of Rs.12,25,28,768/- excluding interest accrued since 14th August 2013 and classified as “Specified Creditors”, filed an Intervention Petition No. 12/MB/2025 to object approval of the proposed scheme admitted vide this present petition for final consideration on ground of its maintainability and legality of the Scheme of Arrangement. Ld. Counsel for the Applicant asserted that the present Scheme seeking to compromise claims of depositors and release attached properties falls outside the jurisdiction of this Tribunal, and is mala fide, unconscionable, contrary to public policy, and ultra vires Articles 14 and 21 of the Constitution as it aims to extinguish pending civil and criminal proceedings and override attachments validly imposed under the MPID Act. He further contended that the Scheme impermissibly binds non-consenting creditors, affects “Consenting Brokers” who are not parties, and indirectly attempts to vacate asset attachments of 63 Moons Technologies Ltd., the parent company of NSEL, which are the subject of multiple judicial proceedings.

Ld. Counsel for L.J. Tanna drew our attention to the decision in case of *State of Maharashtra v. 63 Moons Technologies Ltd. [(2022) 9 SCC 457]*, wherein the Hon’ble Supreme Court set aside the Hon’ble Bombay High Court’s earlier decision and upheld seven notifications attaching assets of 63 Moons under the MPID Act. The Ld. Counsel highlighted ongoing proceedings before the Hon’ble Bombay High Court and the Designated MPID Court concerning the validity and enforcement of these attachments, including *Writ Petition No. 1181/2018* and *Writ Petition (L) No. 15071/2024*, as well as the pending Miscellaneous Applications filed by the Competent Authority to make the attachments absolute. These conclusively establish that the properties forming the subject matter of the

proposed Scheme are under lawful restraint, and any compromise affecting them would directly contravene the MPID framework and the Supreme Court's ruling. L.J. Tanna has raised following grounds for rejection of the proposed Scheme:

- a. **Lack of Jurisdiction:** The Scheme is *de hors* the jurisdiction of this Hon'ble Tribunal since NSEL is a notified "financial establishment" under the MPID Act, 1999, which contains a non-obstante clause (Section 14) granting exclusive jurisdiction to the Designated MPID Court over all matters concerning attachment, management, and disposal of properties.
- b. **Violation of Section 14 of the MPID Act:** The Scheme seeks to indirectly vacate attachments over assets of NSEL and its holding company, 63 Moons Technologies Ltd., which stand confirmed by various judicial orders, thereby undermining statutory powers of the Competent Authority.
- c. **Conditional and Contingent Nature:** The Scheme is conditional upon the release of assets belonging to the holding company, 63 Moons, and thus cannot be considered a genuine or unconditional arrangement under Section 230 of the Companies Act.
- d. **Affecting Non-Party Entities:** The Scheme prejudicially affects the rights of "Consenting Brokers" and other third parties who are neither applicants nor consenting creditors to the Scheme, contrary to settled company law principles.
- e. **Extinguishment of Legal Proceedings:** The Scheme unlawfully seeks to extinguish civil and criminal proceedings pending against NSEL and its group entities, which is impermissible without judicial determination in the competent courts.
- f. **Binding Non-Consenting Creditors:** The Scheme purports to bind non-consenting and dissenting depositors, violating individual creditor rights and being *ultra vires* Articles 14 and 21 of the Constitution of India.

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- g. **Non-Disclosure of Material Judgments:** NSEL has failed to disclose the landmark judgment of the Hon'ble Supreme Court in *State of Maharashtra v. 63 Moons Technologies Ltd. [(2022) 9 SCC 457]*, which upheld multiple attachment notifications, thereby suppressing material facts essential for the Tribunal's consideration.
- h. **Contrary to Public Policy:** The Scheme, by permitting an entity adjudged as a conspirator to fraud to compromise its liabilities and obtain release of attached properties, dilutes the rule of law and is contrary to public interest and constitutional morality.
- i. **Fraudulent and Mala Fide Intent:** The Scheme is an indirect attempt to achieve what cannot be done directly i.e., the release of attached assets and extinguishment of liabilities through a 75% creditor vote constituting abuse of process and mala fide conduct.
- j. **Conflict with Ongoing Judicial Proceedings:** The Scheme interferes with ongoing proceedings before the Hon'ble Bombay High Court and the MPID Court, including *Writ Petition No. 1181/2018*, *Writ Petition (L) No. 15071/2024*, and pending enforcement actions by the Competent Authority, thereby amounting to judicial overreach.

25.8. Geojit Credits Private Limited had filed a Company Application No. 186/MB/2025 stating that the Applicant, an RBI-registered NBFC, had lent funds to 117 clients trading on the NSEL platform, secured through assignment of sale contracts and Irrevocable Powers of Attorney authorizing it to recover dues. The Ld. Counsel had no specific objection to the Scheme, however, asserted that it should receive the monies payable to the specified creditors under the Scheme in discharge of NSEL's obligation to such Specified Creditors. It claims a first charge over all receivables due to these creditors and relies on Hon'ble Bombay High Court Orders dated

02nd September 2014 and 11th April 2017 in *Suit No. 173 of 2014*, which recognized legitimate creditor claims through a court appointed committee. The Applicant further asserted it should have been permitted to vote on behalf of these creditors in the e-voting under this Tribunal's order dated 08th April 2025, as there is no legal bar on the voting by a holder of Power of Attorney. It contended that denial of such right by the Chairperson was arbitrary and has wrongly shown the said creditors as non-consenting.

The Petitioner submitted its reply as on 14th August 2025 stating that the said Application is misconceived, filed to delay approval of a Scheme already supported by the majority of creditors. Ld. Counsel for the Petitioner argued that voting under the Tribunal's order was strictly limited to specified creditors and that no proxy or Power of Attorney voting was allowed. It was further submitted that the Powers of Attorney relied upon by the Applicant do not meet statutory requirements under Section 105 of the Companies Act or Form MGT-11 and do not authorize voting or receipt of funds. Further, 57 of the 117 creditors already voted independently 56 in favor and only one against showing no prejudice. The Petitioner contended that Geojit's claims of lien or first charge are unproven and subject to separate proceedings before the Hon'ble Bombay High Court and MPID authorities, and hence the application deserves dismissal.

25.9. Another intervention application was filed by Lotus Refineries Pvt. Ltd. alleging that the proposed Scheme is prejudicial to minority shareholders, suffers from unfair valuation, non-disclosure of material facts, procedural irregularities, and violates statutory and regulatory provisions, thereby causing irreparable loss if implemented. It further contended that the share exchange ratio is arbitrary, that material litigations and liabilities were suppressed, and

that the Scheme benefits promoters at the expense of minority shareholders, contravening Sections 230(2) and (6) of the Companies Act, 2013 and various SEBI and RBI norms. In reply, the Petitioner Company submitted that the Application is misconceived and not maintainable for lack of *locus standi*, as the Intervener is neither a member nor a creditor within the meaning of Section 230(4) and is, in fact, a declared defaulter against whom an arbitral award of Rs.252.47 crores stands executed; and the Scheme involves no share exchange or valuation exercise and fully complies with Section 230 and applicable Rules; allegations of non-disclosure, procedural lapses, or statutory violations are baseless and unsupported by facts. This application had yet not come on board. Nonetheless, it is noted that the applicant is neither a creditor nor a shareholder, hence it does not have any locus to object to consideration of proposed scheme. Further, the objections raised by the Applicant are based on incorrect understanding of the features of scheme as the same is not an arrangement amongst the shareholders but an arrangement with the creditors of the Petitioner company. In view of this, we do not find any merit in this application and the said application, as and when comes up on board, shall stands disposed of.

26. The Regional Director, Western Region (“RD”) has filed a report on 22nd July 2025. It is submitted that this Tribunal may consider and dispose the case as deems fit and proper in the facts and merits of the case. The scheme is contingent to certain condition precedent including disposal of the criminal proceedings and other complaints raised by the objectors in the matter. The observations in the RD Report have been dealt with by the Petitioner Companies in its Affidavit in Reply dated 14th August 2025 filed with this Tribunal. After due consideration of the observations made by the RD, and the reply by the Petitioner Companies, this Tribunal concluded that:

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- a. **Observation on Pending Proceedings:** The Regional Director has noted the pendency of proceedings initiated by various investigating authorities against the Petitioner Company, including matters under the Economic Offences Wing, Enforcement Directorate, and SFIO. The Petitioner Company has clarified that the Scheme does not, in any manner, affect or compromise such proceedings and that all statutory obligations and liabilities, if any determined, shall continue to bind the concerned parties.
- b. **Observation on Compliance with Accounting Standards and Tax:** The Regional Director has sought confirmation regarding adherence to applicable accounting standards and the basis of share exchange or valuation. The Petitioner Companies have submitted a certificate from an independent Chartered Accountant confirming compliance with Accounting Standard-14 and have further clarified that no share exchange ratio or share issuance is envisaged, as the Scheme contemplates settlement and restructuring of liabilities only and is not designed to avoid any tax liability either.
- c. **Observation on Creditors' Interest and Consenting brokers:** The Regional Director has emphasized the protection of creditors' interests and the consenting brokers. The Petitioner Companies have filed affidavits confirming that the Scheme does not adversely affect the rights of creditors and that the settlement mechanism has been approved by the requisite majority of concerned stakeholders.
- d. **Objection on clauses requiring withdrawal of civil and criminal proceedings including public policy consequences:** The RD contended that clauses 24.5, 24.6, 24.10 of the scheme will withdraw proceedings before courts and authorities. Upon that, the petitioner companies clarified that the scheme does not compel Appropriate Authorities to quash or dismiss any case. Criminal proceedings being within jurisdiction of the competent criminal

courts will continue to be decided on their own merits. The scheme does not circumvent due process. The Scheme operates in private arrangement and it does not bar/ does not eliminate any proceedings by any state or any other authority in furtherance of the approval of the scheme.

- e. **Observation on Statutory Dues and Approvals:** The Regional Director has advised that all statutory dues, including income tax, GST, and other governmental dues, must be duly paid. The Petitioner Companies have undertaken to comply with all statutory requirements and have submitted that there are no outstanding statutory dues that could impede the implementation of the Scheme.
- f. **Observation on Filing of Undertakings:** The Petitioner Companies have filed written undertakings affirming that;
- a. the Scheme does not contravene any law in force
 - b. requisite consents and approvals under the Companies Act and other laws have been obtained or shall be obtained as required, and
 - c. all representations made before this Tribunal are true and correct. The said undertakings are taken on record.

Discussion and Analysis

27. We heard the Ld. Counsel for the Petitioner, 63 Moons, NIF, Intervenor applicants, and Statutory Authorities i.e. EOW, Competent Authority under MPID Act, ED, SFIO. The Petitioner was also directed to issue notice to consenting brokers vide order dated 08th April 2025, however, no one entered appearance on their behalf.
28. Before we proceed further, it is imperative to examine the objections raised by the Intervenor and Statutory Authorities canvassing the proposed scheme as illegal, without jurisdiction and against public policy,

which, besides procedural aspects, this Tribunal is bound to look into in view of decision in case of *Miheer H. Mafatlal vs. Mafatlal Industries Ltd., (1997) 1 SCC 579*, wherein the Hon'ble Supreme Court laid down contours of powers this Tribunal has to exercise while considering a scheme of arrangement under Section 230-232 of the Companies Act, 2013 :

“In view of the aforesaid settled legal position, therefore, the scope and ambit of the jurisdiction of the Company Court has clearly got earmarked. The following broad contours of such jurisdiction have emerged :

- 1. The sanctioning court has to see to it that all the requisite statutory procedure for supporting such a scheme has been complied with and that the requisite meeting as contemplated by Section 391(1) (a) have been held.*
- 2. That the scheme put up for sanction of the Court is backed up by the requisite majority vote as required by Section 391 sub-section (2).*
- 3. That the concerned meetings of the creditors or members or any class of them had the relevant material to enable the voters to arrive at an informed decision for approving the scheme in question. That the majority decision of the concerned class of voters is just fair to the class as whole so as to legitimately blind even the dissenting members of that class.*
- 4. That all the necessary material indicated by Section 393(1)(a) is placed before the voters at the concerned meetings as contemplated by Section 391 sub-Section (1).*
- 5. That all the requisite material contemplated by the provision of sub-Section (2) of Section 391 of the Act is placed before the Court*

by the concerned applicant seeking sanction for such a scheme and the Court gets satisfied about the same.

6. That the proposed scheme of compromise and arrangement is not found to be violative of any provision of law and is not contrary to public policy. For ascertaining the real purpose underlying the Scheme with a view of to satisfied on this aspect, the Court, if necessary, can pierce the veil of apparent corporate purpose underlying the scheme and can judiciously X-ray the same.

7. That the Company Court has also to satisfy itself that members or class of members or creditors or class of creditors as the case may be, were acting bona fide and in good faith and were not coercing the minority in order to promote any interest adverse to that of the latter comprising of the same class whom they purported to represent.

8. That the scheme as a whole is also found to be just, fair and reasonable from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant.

9. Once the aforesaid broad parameters about the requirements of a scheme for getting sanction of the Court are found to have been met, the Court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme even if in the view of the Court there would be a better scheme for the company and its members or creditors for whom the scheme is framed. The Court cannot refuse to sanction such a scheme on that ground as it would otherwise amount to the Court exercising appellate jurisdiction over the scheme rather than its supervisory jurisdiction.

The aforesaid parameters of the scope and ambit of the jurisdiction of the Company Court which is called upon to sanction a Scheme of Compromise and Arrangement are not exhaustive but only broadly illustrative of the contours of the Court's jurisdiction.”

29. Indubitably, the proposed Scheme has been approved by a majority of 91.35% in value of claims of the Specified Creditors, voting in person or by proxy and specified statutory procedure for supporting the scheme has been followed. The objectors have raised, inter-alia, the issue of (a) jurisdiction of this Tribunal to consider a Scheme which concerns the persons other than the members or creditors of a company; (b) illegality in so far as the Scheme contemplates discharge of specified persons from the criminal liability which is against the public policy; (c) cessation of claims of Dissenting Specified Creditors against Consenting Brokers or any other person for recovering of their remaining dues from them; and (d) the Scheme shall prejudice the proceedings initiated by ED, SFIO and MPID Competent authority.
30. The objector before us i.e. L.J. Tanna, Pico Capitals Pvt. Ltd., Nirtex Exports & Investments Pvt. Ltd. and Lotus Refineries Pvt. Ltd. didn't have requisite amount of outstanding claim(debt) so as to qualify to make an objection in terms of proviso to section 230(4) of the Companies Act, 2013 even taken together, accordingly, this Tribunal cannot look into their objections to the Scheme in so far as the scheme is alleged to be prejudicial to their interest. However, we further note that the Hon'ble NCLAT in case of *Ankit Mittal vs. Ankita Pratisthan Ltd. and Others 2019 SCC Online NCLAT 847* at Para 32 held that “*The issue raised by anybody even if not eligible or even otherwise the Tribunal will have a duty to look into the issue so as to see whether the scheme as a whole is also found to be just, fair, conscionable and reasonable inter alia from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant. The Tribunal*

also has to see that the scheme of amalgamation if the same is prejudicial to the interest of a particular class who may not be able to meet the threshold limit to see the scheme but it may be a pointer enough for the Tribunal to see that the scheme may be loaded against the interest of the objectors”.

31. The Hon’ble NCLAT in case of ***Jatinder Singh Ahuja and Ors. Vs. Tata Steel Limited and Ors. MANU/NL/0867/2023*** further held at internal page 28 that *“Of course, the Tribunal is required to ensure that all procedures as stipulated for amalgamation under Companies Act, 2013 and the relevant rules have been duly followed and the scheme is conscionable. It also implies that the Tribunal is also required to look into, before approving the scheme, that the scheme as such is fair and reasonable from different points of view and various perspectives, taking care interests of various stakeholders and the scheme can be upheld as commercially prudent decision.”* It further held at Page 29 that *“Similarly, if the material facts are not disclosed or adequate facts are not disclosed, the Tribunal is required to look into the legality of the scheme.....”*.
32. We are conscious that these principles have already been enunciated by Hon’ble Supreme Court in case of ***Miheer H. Mafatlal vs. Mafatlal Industries Ltd. (1997) 1 SCC 579*** and the Courts/Tribunal have to examine these aspects before approving any scheme. In view of these legal proposition, we considered it appropriate to allow the Learned Counsel for the Applicants to make their submissions in order to assist this Tribunal to make out whether the contentions raised by the Applicants leads us to conclude whether the Scheme, in question, is prejudicial to public interest (not the applicant’s interest); whether the scheme has been passed after following due procedure as prescribed and contemplated under the applicable law; and whether is fair, conscionable and not opposed to public policy.

33. The terms “Compromise” or “Arrangement” used in Section 230 of the Companies Act, 2013 are wide amplitude as has consistently been held by Court in the context of Section 391 of the Companies Act, 1956. Section 230 deals with power of a company to compromise or arrangement with its creditors. Indubitably, the specified creditors with whom the proposed scheme is entered into are creditors of the Petitioner Company and these creditors, by requisite majority, have agreed to enter into a compromise and arrangement with the Petitioner Company to settle their dues in the manner specified in the proposed scheme and relinquish all their claims in relation to such debt against the Company and any other person including consenting brokers upon payment of proposed amount. There is no allegation that the majority of specified creditors who have voted in favour of scheme have acted in mala-fide or biased manner so as coerce the minority into accepting the proposed scheme approved by the requisite majority. Instead, such minority is getting bound by the scheme on account of statutory provisions contained in section 230(6) of the Code.
34. The provisions relating to scheme of compromise or arrangement under the Companies Act, 2013 does not provide the extent to which such compromise or arrangement can be entered into and it leaves it to the determination of the parties between whom such compromise or arrangement is being proposed. The proposed scheme, which has been agreed and voted by the requisite majority, contemplates settlement of all claims of specified Creditors fully, whereby they have agreed to assign their claims, in relation to the debt due from the Company, against consenting brokers. The proposed scheme proposes complete settlement of rights of specified creditors against petitioner company and consenting brokers, and settlement amount offered under the scheme is for their claim in full against any person. Merely because, the terms of compromise take away rights of the minority creditors to recover from consenting brokers or any other person, it cannot be accepted that this Tribunal ceases to have

jurisdiction to consider such scheme contemplating cessation/assignment of rights of creditors against third persons in relation to the debt owed to the company. On the contrary, the courts have approved the scheme of arrangement between secured creditors and the company whereby the rights of creditors against guarantors/mortgagors have been extinguished/assigned in a Scheme of arrangement or compromise with such secured creditors. It is also relevant to note the decision in case of in *ICICI Bank Ltd. v. Official Liquidator of APS Star Industries Ltd. (2010)10 SCC* wherein the Hon'ble Supreme Court quoted decision in case of *Comdex International Ltd. v. Bank of Zambia (1996) 3 WLR 759* holding that "*The assignment of a debt will not be contrary to public policy solely on the grounds that the assignee has purchased the debt for a considerably discounted price or because that price is payable after a period of credit. Nor will the assignment be contrary to public policy simply because the assignee may make a profit on the transaction at the end of the day*". Since, it is specified creditors who are agreeing to assign their right to recover from consenting broker in the manner specified in the scheme and in consideration thereof, the petitioner company is agreeing to pay them the settlement amount, we are of considered view that it cannot be said that the proposed Scheme concerns the persons other than the members or creditors of a company as this arrangement is being agreed between the company and its specified creditors how the proceedings in relation to their remnant claim shall be continued or survive in future after payment of settlement amount to such specified creditors.

35. As regards discharge from the criminal liability of specified persons contemplated in the proposed scheme, we find that the proposed scheme obligates the Petitioner to approach and obtain appropriate directions from each concerned Court or Tribunal or Authority in respect of orders passed by various courts and they are required to approach and obtain appropriate

directions from each concerned Court or Tribunal or Authority in respect of attached properties.

36. It is pertinent to refer to Clause 24.6 of the proposed scheme which provides that “*After the Settlement Trigger event, the Consenting Brokers, Consenting Brokers' Associates, Persons in the 63 moons Group past and present employees of 63 moons and NSEL (to the exclusion of Amit Mukherjee, Jai Bahukhandi, Anjani Sinha and Manishchandra Pandey), and Specified Creditors, through the persons mentioned in Clause 24.14, shall jointly apply to respective Courts for quashing/ compounding /dismissal /discharge of criminal proceedings.*”
37. In our considered view, the quashing or termination of any criminal proceedings pending before any Court or before any quasi-judicial/ non-quasi-judicial authorities is dependent on the order(s) passed by such Court or quasi-judicial/ non-quasi-judicial authorities and the approval of the proposed scheme does not discharge the specified persons from any criminal action which may lie against them pursuant to orders of such Court or quasi-judicial/ non-quasi-judicial authorities on an application before such forums pursuant to approval of the proposed scheme. Instead, all such proceedings shall be dealt with by the Appropriate Authority/Court in accordance with law and the Petitioner as well as specified persons are bound by it. Accordingly, we do not find such scheme against public policy on this ground.
38. It is also pertinent to refer to Clause 24.5 obligating the specified creditors providing that “*On and from the Settlement Trigger Event, the Specified Creditors, including but not limited to their successors, assigns, or representatives, shall not pursue, initiate, or threaten to initiate any legal, arbitral, civil or criminal or other proceedings or actions against Persons in 63 moons Group, Consenting Brokers or Consenting Brokers'*

Associates in respect of matters arising out of, relating to or touching upon Payment Default.”

39. It is also relevant to refer to Clause 24.10 of the proposed scheme providing that “*Without limiting the foregoing, the Specified Creditors, after the Settlement Trigger Event shall also write to Appropriate Authorities or file pleadings in Courts, as and when required, seeking withdrawal or disposal of any proceeding relating to penal, preventive, confiscatory, prohibitory or any other action against Persons in 63 moons Group and Consenting Brokers and Consenting Brokers' Associates as may be legally permissible.*”
40. Further, clause 24.8 of the proposed scheme obligates the specified creditors not to *oppose, whether in their capacity as victims or otherwise, such quashing / compounding / discharge/ dismissal of criminal proceedings.* Clause 24.14 of the proposed Scheme authorises Mr. Harpreet Kaur Dang and Mr. Anand Ladsariya irrevocably on behalf of specified creditors to act or perform task in relation to *any obligations, actions, or duties cast upon the Specified Creditors* under this Scheme.
41. These clauses only take away right of the specified creditors in relation to criminal action against the specified creditors in relation to payment default. It is pertinent to note that, consequent upon occurrence of payment default, various government authorities have filed proceedings before various forums which entail criminal actions against specified persons, but these clauses do not, in any manner, take away the right of State to prosecute criminal proceedings against such specified persons in case such forum does not quash or discharge such specified persons from criminal liability in such proceedings. These clauses only obligate specified creditors not to pursue any civil or criminal action against specified person, which in our considered opinion, arises from the reasonable expectation of a debtor from its creditors while such debtor seeks to settle

their dues and is part of complete package to which the specified creditors have consented by requisite majority.

42. For the aforesaid reasons, the scheme obligating the specified creditors for not opposing quashing or their consent to such quashing cannot said to be against the public policy as it is the specified creditors, who by majority, are agreeing to, and they ought to bind themselves in terms of the majority consent in terms of Scheme of arrangement having statutory force. The decision in case of Union Carbide (Supra) is not applicable to the present case. Distinguishable, as the Scheme does not seek quashing of criminal proceedings consequent to approval of proposed scheme.
43. As regards cessation of claims of Dissenting Specified Creditors against Consenting Brokers or any other person for recovering of their remaining dues from them, we do not find any bar in the provisions of Section 230 if the majority of creditors consent to a scheme of arrangement whereby they forego their rights to recover the balance amount from other persons they may be entitled to. It is pertinent to note here that the petitioner company as well as 63 moons, through the proposed scheme, are proposing to facilitate the settlement of claims of specified creditors through an alternate mechanism notwithstanding the extent to which they are liable to such creditors, accordingly, the assignment of claims of specified creditors against any other person in their favour is in sync with the principle of subrogation. Accordingly, we do not find any illegality in the proposed scheme on this ground.
44. It is noted that, the competent authority under MPID Act and EOW supported the scheme, though they had reservations on compliance with Order dated 13th October 2022 of MPID Court has upheld vide Order dated 15th March 2023 by Hon'ble Bombay High Court and Order dated 10th April 2023 passed by Hon'ble Supreme Court as well as discharge of specified persons from criminal action. As regards discharge of specified

persons from criminal action, we have already noted in the preceding para that the approval of proposed scheme does not result into automatic discharge or release of specified persons from the criminal actions, which may lie against them, and such discharge or release is dependent on the Order(s), the courts or authorities may pass on an application to be filed in accordance with the Scheme. Accordingly, it is for the courts or relevant authorities, where such criminal proceedings against specified persons are pending, to examine whether the specified persons, including the petitioner and 63 moons can be relieved of criminal consequences arising from the events that led to payment default. It is relevant to note the decisions in case of *K. Bharthi Devi & Anr. v. State of Telangana & Anr., SLP (Criminal) No. 4353 of 2018; Gian Singh v. State of Punjab & Anr., (2012) 10 SCC 303*) wherein the Hon'ble Supreme Court held that the High Courts in exercise of their power under Section 482 of Cr.PC can compound or quash the non-compoundable offences *to prevent abuse of the process of any court or otherwise to secure the ends of justice*. Accordingly, such stipulation in the scheme cannot said to be against public policy or illegal.

45. Further, the above said Order(s) passed by the MPID Court only mandates settlement of claims of creditors having outstanding amount between Rs.10 lakhs to Rs.20 lakhs from the proceeds of attached properties in priority over other depositors and were passed in order to protect their interest. Further, the Order passed by Hon'ble Supreme Court in execution proceedings against defaulters under consent constituted a High powered Committee of Hon'ble Justice Pradeep Nandrajog (Retd.) for speedy recovery of the outstanding amounts to be distributed to the investors. The scheme also contemplates the same by utilizing the proceedings thereof for the settlement. The proposed scheme contemplates the settlement of their claims in full by offering them approx. 41% of their claims within period specified in the

scheme after fulfillment of conditions enumerated in clause 14 of the proposed scheme. Accordingly, the proposed scheme, in no way, is in contradiction of these orders, instead, the scheme facilitates the intent and object of these orders. It is pertinent to note that the majority Specified Creditors, which includes creditors having claims up to Rs.20 lakhs, have voted in favor of the Scheme, thus, the above said orders seeking payment of their dues is, on the contrary, in sync with the spirit and object of such orders. Needless to say, the attachment over the properties is to be dealt in accordance with the orders passed by respective court/authority, hence, the proposed scheme is not in contradiction or in violation of the said orders.

46. It was also contended that the Scheme shall prejudice the proceedings initiated by ED, EOW, SFIO and MPID Competent authority and the attachment order(s) passed by these authorities ought to be dealt with in accordance with the respective law. In our considered view, the Scheme does not contemplate vacation of attachment or closure of any proceedings filed by these authorities as a consequence to the approval of proposed scheme.
47. It is noted that the proposed scheme contemplates filing of an application before these authorities and shall be effective only upon fulfilment of conditions stipulated in clause 14, which inter-alia, also contemplates vacation of attachment. Accordingly, the scheme shall have its binding effect only after vacation of attachment, which in our considered view, shall follow the due process of respective law and the Court/authority seized of the matter shall do the same considering the object and intent of respective statute. Accordingly, we do not find any merit in the contention of these authorities that the proposed scheme may prejudice the proceedings initiated by them under the relevant statute before various forums.

48. As regards proposed scheme offering less than what the specified creditor may get from proceeds of attached assets and by pursuing their remedies against the defaulting traders, we are of considered view that the specified creditors, by majority, have entered into a collective commercial bargain by approving the proposed scheme with requisite majority, and this Tribunal can not interfere with their decision to accept what is proposed in the scheme as full & final settlement of their dues in the manner specified in the scheme. The Scheme providing for assignment of claims of specified creditors in favor of 63 Moons does not render it unfair, especially since 63 Moons is assuming the financial burden and risk of recovery from defaulters, with NSEL having no assets.
49. It is also noted that the preamble of MPID Act reads as “*An Act to protect the interest of depositors in the Financial Establishments and matters relating thereto*”. Consequent thereto, the authorities thereunder had acted against the errant persons by attaching their assets so as to distribute the proceeds thereof to the creditors. Section 230 of the Companies Act, 2013 empowers a company to enter a scheme of compromise or arrangement with its creditors and section 230(7) thereof mandates this Tribunal to provide for the protection of any class of creditors also. The proposed scheme seeks to settle the dues of specified creditors by relieving them of burden of pursuing their claims before various forums through a single window mechanism, which otherwise are recoverable through intervention of various authorities and protracted litigations. The Scheme provides for release of attached properties and withdrawal of cases against specified persons, in terms of order(s) to be passed by relevant courts/authorities, including MPID authorities. Accordingly, in our considered view, the Scheme does not contain any proposal in contradiction of MPID Act. It is pertinent to note that MPID Authorities have objected to the proposed scheme in so far it seeks to exonerate or discharge specified persons from any criminal action and this aspect has

been clarified by the Petitioner that such discharge shall be strictly in accordance with the order(s) passed by such Court/Authorities.

50. L. J. Tanna has also alleged suppression of facts which include the Hon'ble Supreme Court's 22th April 2022 decision, contempt proceedings, and undertakings in *Suit Nos.121 and 173 of 2014*. We note that the Section 230(2)(a) of the Companies Act, 2013 requires a Petitioner company to disclose all material facts relating to the company, such as the latest financial position of the company, the latest auditor's report on the accounts of the company and the pendency of any investigation or proceedings against the company. The details of all litigations have been disclosed in the proposed scheme. The proposed scheme clearly provides that all pending proceedings shall be dealt by respective court/authority on an application filed by it, accordingly, the decisions or any undertaking filed in any proceeding shall be dealt with by such respective court/authority by considering their application in terms of said scheme.
51. As regards scheme not contemplating any timeline, it is pertinent to note that such timelines could not have been contemplated considering the arising of effective date dependent on fulfilment of conditions in Clause 14 of the Scheme, where the court/authority have to decide on the application(s) filed before it, hence, no timelines could be placed by any person on such court/authority to decide the same, except by law.
52. The decisions relied upon various objectors are distinguishable and do not support their case. In case of *National Spot Exchange Ltd. v. Union of India (2025 SCC Online SC 1137)*, the Hon'ble Supreme Court held on facts of case that there is no overlap or inconsistency between the provisions contained the IBC and MPID Act and also held that so far as the attachment of the properties under section 4 of the MPID Act is concerned, it is beyond the realm of the debtor - creditor relationship as contemplated in the IBC. In the case of *IMP Powers Ltd. and its secured*

creditors vs IMP Powers Ltd. (2007 SCC Online Bom 284), the Hon'ble High Court, it was held that the exercise of powers by the Company Court in matters which, fall within the ambit of the jurisdiction of the Debt Recovery Tribunal, would clearly amount to curtailing the jurisdiction of the Tribunal to adjudicate upon the claim of recovery submitted before the Tribunal. These decisions pertain to conflicts between two statutes and we have already noted in the preceding paras that the vacation of attachment and pending legal proceedings are to be dealt with in accordance with the application to be presented before the concerned court/authority whose decision in this respect shall be final. The decision in *Wiki Kids Ltd. and Ors. Vs. Regional Director, South East Region and Ors. (Manu/NL/0228/2017)* dealt with unfair advantage flowing to one group of shareholders, and we have noted in preceding paras that the present scheme does not discriminate specified creditors in any manner, accordingly stands distinguished. The decision in *Mist Direct Sales Pvt. Ltd. CA(CAA)-10/ND/2024* deals with suppression of facts and abatement of legal proceedings, which has been dealt with in preceding paras, accordingly stands distinguished. The judgment of *Harrington v. Purdue Pharma L.P., 603 U.S. 204 (2024)* from the United States is in relation to discharge of non-debtors in a bankruptcy proceeding by a bankruptcy court, hence is not applicable to the present case.

53. As regards Geojit's intervention to protect its rights qua specified creditors in relation to money which may become payable to them, it is noted that Geojit's representations before the Hon'ble Bombay High Court, the High Court Committee and the Competent Authority are yet to be adjudicated regarding its claims pertaining to the Specified Creditors. Nonetheless, this Tribunal is not an appropriate forum to adjudicate the right of Geojit to receive money on behalf of its borrowers, who are amongst specified creditors. It was also contended that it should have been permitted to vote on behalf of these creditors in the e-voting under this Tribunal's order

dated 08th April 2025, as there is no legal bar on a Power of Attorney holder voting. However, we note that the majority of borrowers of Geojit had exercised their vote, accordingly, it being an POA holder could not have asserted its right to vote when the person authorizing it had exercised its vote. Accordingly, we do not find any merit in prayer for directions sought by it.

Order

54. We have perused the submissions made by the Petitioner Companies and the report submitted by all the applicable regulators. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy.
55. The Income Tax Department will be at liberty to examine the aspect of any tax payable as a result of this Scheme and it shall be open to the Income Tax Authorities to take necessary action to deal with, in relation to tax or any other kind of obligations of Petitioner Company, as permissible under the Income Tax Laws.
56. It is submitted that all the requisite statutory procedure has been fulfilled, the Company Petition is made **absolute** in terms of the prayer clause of the Petition. However, it is clarified that
 - i. The sanction of the present Scheme shall not, in any manner, override, dilute, or affect the operation of any subsisting attachment orders issued by any Court, Tribunal, or Authority, and the same shall happen in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.
 - ii. The sanction of the Scheme shall not be construed the quashing, withdrawal, or termination of any criminal proceedings pending before any judicial, quasi-judicial, or other competent authorities,

and the same shall be decided in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.

57. The Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, in e-Form INC-28 within 30 days from the date of receipt of this order, duly certified by the Registrar, as the case may be, of this Tribunal.
58. The Petitioner Companies to lodge a certified copy of this order and the Scheme duly authenticated by the Designated Registrar, as the case may be, of this Tribunal, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within 60 working days from the date of receipt of the certified copy of this order.
59. All Authorities concerned to act on a copy of this Order along with Scheme duly authenticated by the Registrar, National Company Law Tribunal, Mumbai.
60. Ordered accordingly.
61. The present Company Petition i.e., **C.P. (C.A.A)/104 (MB) 2025 in C.A.(C.A.A)/65 (MB) 2025** is **allowed** in terms of above and **disposed of**, accordingly. IVN.P/7(MB)2025, IVN.P/11(MB)2025, and IVN.P/12(MB)2025 are also disposed of in terms of this order.
62. Files to be consigned to records.

Sd/-

Prabhat Kumar
Member (Technical)

/VB/

Sd/-

Sushil Mahadeorao Kochey
Member (Judicial)