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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA(CAA) No. 80/NCLT/AHM/2017


Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.07.2017**

Name of the Company: Masibus Automation & Instrumentation Pvt. Ltd.

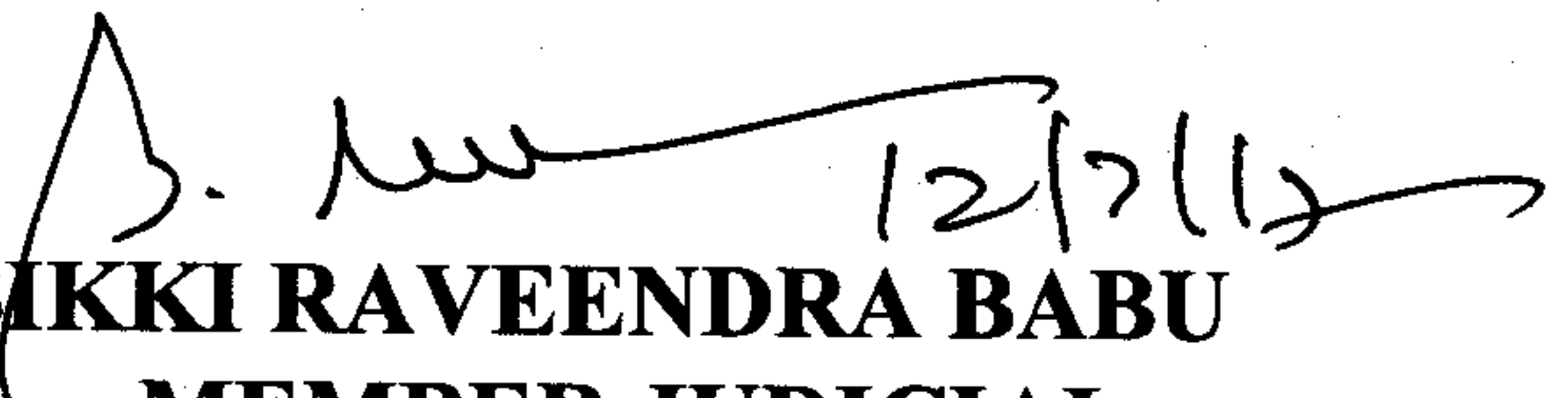
Section of the Companies Act: Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	VAIBHAVI PARIKH	ADVOCATE	APPLICANT	
2.				

ORDER

Learned Advocate Ms. Vaibhavi Parikh present for Applicants.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 12th day of July, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CA(CAA) No. 80 of 2017

In the matter of: -

Masibus Automation And Instrumentation
Private Limited,

A company incorporated under the
provisions of the Companies Act, 1956,
having its registered office at B-30,
GIDC Electronic Estate, Sector 25,
Gandhinagar – 382 044,
in the State of Gujarat.

... Applicant Transferee Company

Order delivered on 12th July, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

For the Applicant: Ms. Vaibhavi K. Parikh, Advocate.

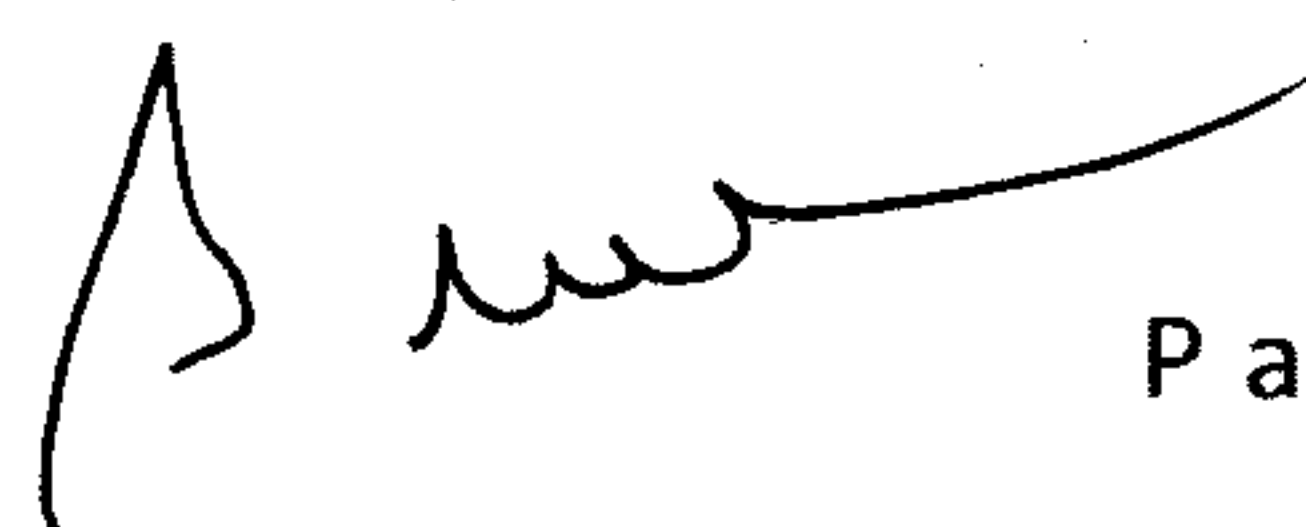
ORDER

1. Heard learned Advocate, Ms. Vaibhavi Parikh, for the applicant.
2. The applicant, Masibus Automation And Instrumentation Private Limited, by this application under sections 230-232 of the Companies Act, 2013 read with Rules – 3 and 18 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, is seeking dispensation of meetings of equity shareholders and secured creditors and directions for holding meeting of unsecured creditors of the applicant company in respect of a proposed Scheme of Arrangement in the nature of

Amalgamation of Masibus Electronics Private Limited (“transferor company”) with Masibus Automation And Instrumentation Private Limited (“transferee company”) and their respective shareholders and creditors (hereinafter referred to as the “scheme” for short).

3. The Applicant is a private limited company. The authorized share capital of the applicant transferee company as on 31st March, 2017, was Rs.3,00,00,000/- and the issued, subscribed and paid-up share capital of the applicant transferee company as on the said date was Rs.2,65,00,000/- divided into 26,55,713 equity shares of Rs.10/- each. Subsequent to 31st March, 2017, there was change in the share capital of the applicant transferee company. The authorised capital of the applicant company was increased on 9th May, 2017 from Rs.3 crores to Rs.3.5 crores. As per the provisional Financial Statement as on 20th May, 2017, the authorised share capital of the applicant transferee company was Rs.3,50,00,000/- and the issued, subscribed and paid up share capital of the applicant transferee company, as on the said date, was 2,65,57,130/- divided into 26,55,713 equity shares of Rs.10/- each.

4. The proposed Scheme has been approved by the Board of Directors of the Applicant Transferor Company vide Resolution dated 21st April, 2017. Vide certificate Annexure-F, the Statutory Auditors have certified that the Accounting treatment proposed



in clause 6 of the Scheme is in conformity with the applicable Accounting Standards.

5. It is stated in the Application that the Equity Shareholders have approved the proposed Scheme of Amalgamation in form of written consent letters on Affidavit and have further waived their right to attend the meeting for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s). The Applicant has placed Consent Letters of the Equity Shareholders as Annexure "G". A Certificate from Chartered Accountant confirming the list and consents from the Shareholders of the Transferor Company is filed as Annexure "H". The Certificate given by the Chartered Accountant shows there are sixteen Shareholders in the Applicant Transferor Company. All the Shareholders of the Applicant Transferor Company gave Consent Letters for the proposed Scheme and waived their rights to call for meeting of Equity Shareholders.

6. In view of the Consent Letters given by all the Equity Shareholders of the Applicant Transferor Company, the meeting of the Equity Shareholders of the Applicant Transferor Company, for the purpose of considering and, if thought fit, approving the scheme with or without modification(s), is dispensed with.

7. It is stated in the application that there are two secured creditors and both the secured creditors have given consent in writing in respect of the proposed Scheme. The applicant

transferee company has produced a certificate given by Chartered Accountant vide Annexure-J showing that there are two secured creditors in the applicant transferee company and both the secured creditors have given consent in writing for the proposed scheme and waived their rights to call meeting of the secured creditors.

8. In view of the consent letters given by the secured creditors of the applicant transferee company, the convening and holding of meeting of secured creditors of the applicant transferee company, for the purpose of considering and, if thought fit, approving with or without modification(s) the scheme is dispensed with.

9. The Applicant Company has requested this Tribunal to give necessary directions to convene and hold meeting of Unsecured Creditors for the purpose of considering, if thought fit, approving the Scheme with or without modification(s).

10. Having considered the entire material on record, this Tribunal passes following orders: -

- (a) Meeting of Unsecured Creditors of the Applicant Transferor Company shall be convened and held on 28th August, 2017, at 11.00 a.m. at the Registered Office of the Company at B-30, GIDC Electronic Estate, Sector 25, Gandhinagar - 382 004, Gujarat, for the purpose of considering it, and, if

thought fit, approving the Scheme with or without modification(s).

(b) In view of Section 230(4) and 232(1) of the Companies Act, 2013 read with Rules 5 and 6 of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 and Rules 20 and 22 of the Companies (Management and Administration) Rules, 2014, the Applicant Company is required to provide facility of postal ballot to its Unsecured Creditors. Accordingly, voting by the Unsecured Creditors of the Applicant Company to the scheme shall be carried out through postal ballot or polling paper at the venue of the meeting to be held on 28th August, 2017.

(c) At least one month before 28th August, 2017, i.e. date of aforesaid meeting, an advertisement about convening of the said meeting, indicating the day, date, place and time, as aforesaid, shall be published in English daily, Times of India, Ahmedabad Edition and a Gujarati translation thereof in Divya Bhaskar, Ahmedabad Edition. The publication shall indicate the time within which copies of the scheme shall be made available to the concerned person free of charge from the registered office of the Applicant Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and the prescribed form of

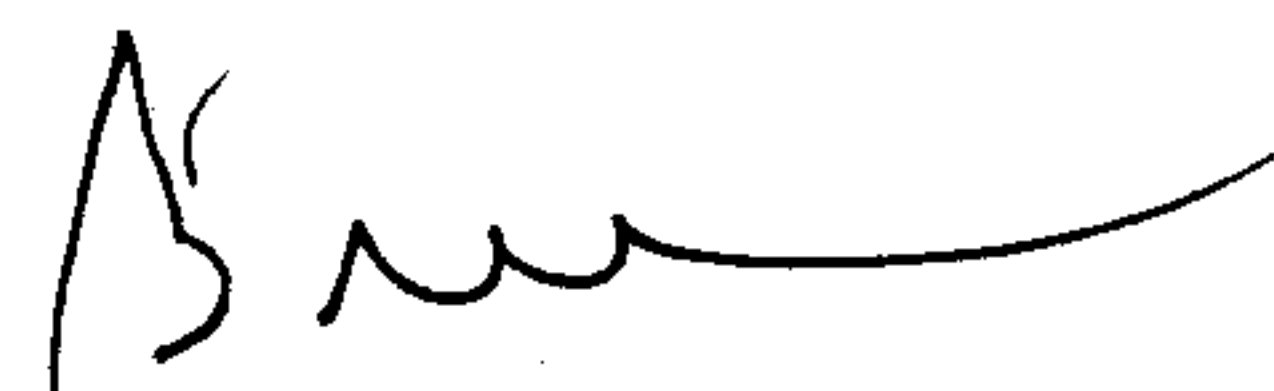
proxy can be obtained free of charge at the registered office of the Applicant Company in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

- (d) At least one month before 28th August, 2017, i.e. date of aforesaid meeting of the Unsecured Creditors, a notice in Form No. CAA 2 convening the said meeting indicating the day, date, place and time aforesaid, containing instruction with regard to postal ballot together with a copy of scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and prescribed form of proxy shall be sent to each of the Unsecured Creditors of the Applicant Company at their respective registered or last known addresses either by Registered Post or Speed Post/Airmail or by Courier. The notices shall be sent to the Unsecured Creditors of the Applicant Company with reference to the list of the persons appearing on the record of the Applicant Company and its register as on 20th May, 2017.

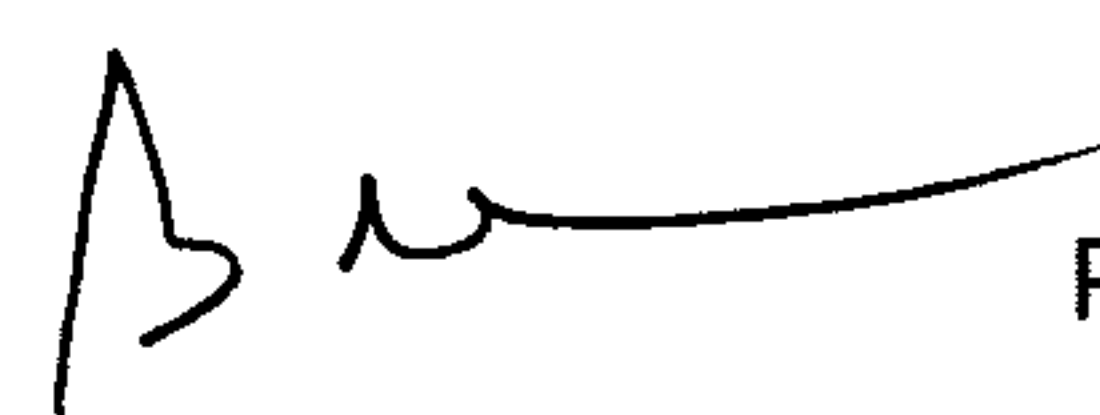
- (e) Mr. Manish Mathur, Practising Chartered Accountant and, in his absence, Mr. Krishnamurthy Subramaniam, Managing Director of the Applicant Company shall be Chairman/Chairperson of the aforesaid meeting to be held

on 28th August, 2017 and in respect of adjournment or adjournments thereof.

- (f) Mr. Hitesh Mehta, Practising Company Secretary is appointed as the Scrutinizer for the meeting of the Unsecured Creditors of the Applicant Company.
- (g) The Chairman or Chairperson appointed for the aforesaid meeting shall issue the advertisement and send out notices of the meeting referred above. The Chairman/Chairperson is free to avail the services of the Applicant Company or any agency for carrying out the aforesaid directions. The Chairman/Chairperson shall have all the powers under Articles of Association of the Applicant Company and also under the Rules in relation to conduct of meetings, including for deciding any procedural questions that may arise at the meeting or adjournments thereof proposed at the said meeting, amendment(s) to aforesaid scheme or resolutions, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decisions of the sense of unsecured creditors by polling paper/ ballots at the venue of the meeting of the unsecured creditors.
- (h) The quorum of the meeting of unsecured shall be 3 (Three) persons present in person.

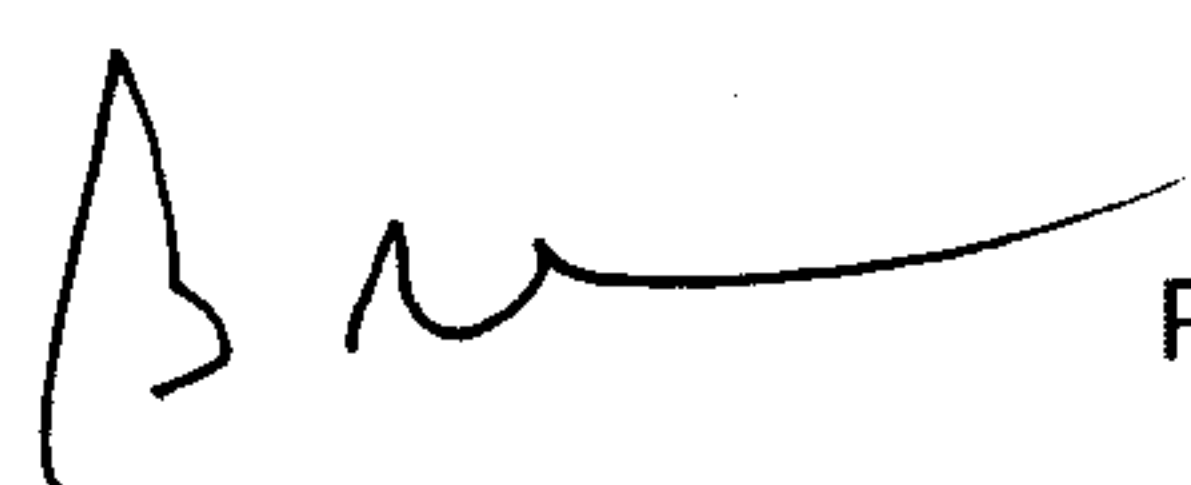


- (i) Voting by proxy/authorized representative is permitted, provided that proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote in aforesaid meeting is filed with the Applicant Company at its Registered Office at B – 30, GIDC Electronics Estate, Sector 25, Gandhinagar in the State of Gujarat, not later than 48 hours before the meeting vide Rule 10 of Companies (CAA) Rules, 2016 read with Section 105 of the Companies Act, 2013.
- (j) The value of debt of the Unsecured Creditors shall be accordance with the records of the Applicant Company and where the entries in the records or registers are disputed, the Chairman of the meeting shall determine the value, as the case may be, for purpose of the meeting.
- (k) The Chairman/Chairperson to file an affidavit not less than 7 (Seven) days before the date fixed for the holding of the meeting and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meeting have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.
- (l) It is further ordered that the Chairman or Chairperson shall, report to this Tribunal on the result of meeting in Form No. CAA 4 verified by his affidavit, as per Rule 14 of the

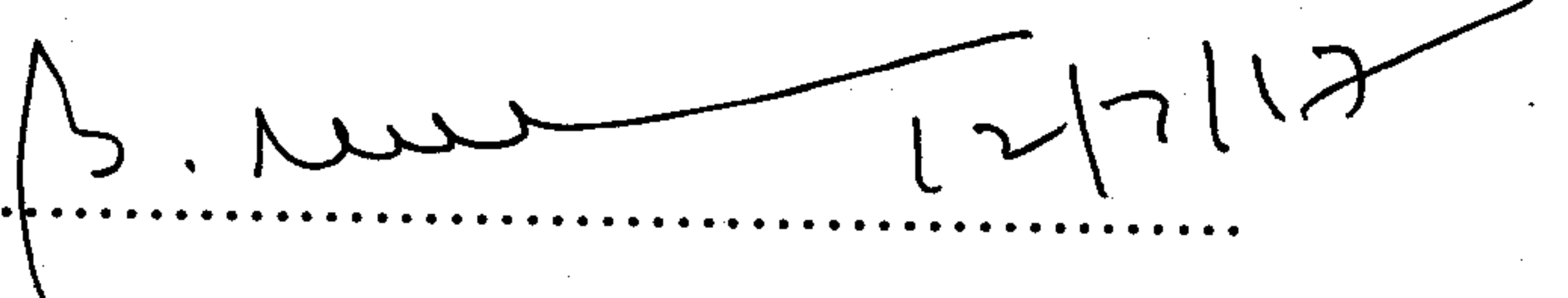


Companies (CAA) Rules, 2016 in Form No. CAA 4 within seven days after conclusion of the meeting.

- (m) In compliance of sub-section (5) of Section 230 and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Company shall send a notice of meeting under sub-section (3) of Section 230 Read with Rule 6 of the Companies (CAA) Rules, 2016 in Form No. CAA 3 along with a copy of the scheme of arrangement, explanatory statement and the disclosures mentioned under Rule 6, to (i) the Central Government through the Regional Director, North Western Region, (ii) the Registrar of Companies, (iii) the Income-tax authorities, and (v) the Reserve Bank of India, stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of the receipt of such notice, failing which it shall be presumed that they have no objection to make on the proposed scheme. The said notice shall be sent forthwith after notice is sent to the unsecured creditors of the company by Registered Post or by Speed Post or by Courier or by Hand Delivery at the office of the authority as required by Rule (2) of Rule 8 of the Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230, shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on proposed amalgamation.



11. This Company Application is disposed of accordingly.

 12/7/17

[Bikki Raveendra Babu, Member (J)]

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