

ATTENDANCE-CUM-ORDER SHEET OF HEARING

NATIONAL COMPANY LAW TRIBUNAL GUWAHATI BENCH

T.P. No.33/391(1)/394/GB/2016

C.P.No.12 of 2016.

1. Rituraj Commosale Pvt. Ltd.
2. Assam Hire Purchase Co. Pvt. Ltd.

... Petitioners

Present: Hon'ble Mr Justice P K Saikia, Member(J)

Date of hearing: 28th February 2017.

Name of the Company	Rituraj Commosale Pvt. Ltd. & Assam Hire Purchase Co. Pvt. Ltd.
Under Section	391(1)/394

Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

ORDER

Heard Mr. R.K. Agarwala, learned counsel for the petitioners assisted by Ms. D. Kalita, Advocate.

2. The present petition has been transferred by the Hon'ble Gauhati High Court to this Tribunal under section 434 of the Companies Act, 2013 read with Companies (Transfer of Pending Proceedings) Rules, 2016.



3. Perused the petition for confirmation of the Scheme of Amalgamation between the petitioner companies and their respective shareholders filed in Form No. 40 of the erstwhile Companies (Court) Rules, 1959.

4. Also seen the order passed by the Hon'ble Gauhati High Court on 18/04/2016 in Company Application No. 04/2016. For ready reference the order is reproduced below:

"Heard Mr. R. K. Agarwala, learned counsel for the applicants.

Upon hearing the learned counsel, the following order is passed:

This is an application under sections 391(1) & 394 of the Companies Act, 1956 read with sections 230 to 232 of the Companies Act, 2013. Summons has been taken out with a prayer for dispensing with the meetings of the shareholders of the applicant companies.

In view of the written consent given by all the shareholders of the applicant companies, which is annexed to the affidavit in support of the summons, such prayer is allowed.

The applicant companies are directed to file the confirmation petition within eight weeks from today.

The application is accordingly disposed of."

5. Thereafter, Hon'ble Gauhati High Court, on 24/04/2016, passed an order in Company Petition No. 12/2016. For ready reference the order is reproduced below:

"Heard Mr. R. K. Agarwala, learned counsel for the petitioners.

Perused the petition for confirmation of the Scheme of Amalgamation in Form No. 40 of the Companies (Court) Rules, 1959.

Let notice of hearing be advertised in the "Assam Tribune" and in "Dainik Asom", Guwahati not less than 14 (fourteen) days before the date fixed for hearing

Let notice of the petition be served to the Central Government through Regional Director, Company Law Board, North-Eastern Region, Shillong.

Notice is to be served on the Central Government through Company Law Board, North Eastern Region, Shillong and to be served not less than 28 days before the date fixed for hearing. Let this petition be fixed for hearing on 08.09.2016."


6. As such, it appears that Hon'ble Gauhati High Court has already dispensed with the meetings of the shareholders vide order dated 18/04/2016 passed in Co. Application No. 04/2016 and also vide order dated 24/06/2016 in

Company Petition No. 12/2016 issued notice to the Central Government through the Regional Director, Company Law Board, North Eastern Region, Shillong and had also directed to advertise the notice of hearing in "Assam Tribune" & "Dainik Asom" not less than 28 days before the date fixed for hearing.

7. The learned counsel appearing for the petitioners submits that all the directions given by the Hon'ble Gauhati High Court vide its order dated 24/06/2016 has been faithfully complied with and an affidavit as regards the aforesaid compliance has been filed on 01/08/2016 before the Hon'ble Gauhati High Court. On perusal of the said affidavit dated 01/08/2016 filed before the Hon'ble Gauhati High Court, it appears that notice of hearing has been published on 21/07/2016 in "Assam Tribune" & in "Dainik Asom". Copies of advertisement has been annexed with the said affidavit as Annexure "A" & "B". It further appears that notice was also sent to the Central Government through the Regional Director, Company Law Board, North-Eastern Region, Shillong by registered post under Rule 27 in Form No. 6 of the Companies (Court) Rules, 1959. The postal receipt of the said notice is also annexed as Annexure "C" in the said affidavit dated 01/08/2016.

8. The Central Government has filed an affidavit through Regional Director, North Eastern Region, Ministry of Corporate Office, Shillong and stated that they have examined in detail the report of the Registrar of Companies, N.E. Region, Shillong and it appears that there is no complaint against the said proposed scheme of arrangement. The Central Govt. has, therefore, decided not to oppose the petition and the matter be decided by this Hon'ble Court on its merit. They have also stated that as per instruction of the Ministry of Corporate Affairs, New Delhi, as copy fo the scheme was fo4warwded to the Income Tax Department. On 11.8.2016 to forward their views comments/observations/objections, if any, comments on the proposed scheme within 15 days, but till date no reply has been received from the said authority. The Regional Director submitted that the matter be disposed of on its merits.

9. From the materials on records, the Scheme appears to be fair and reasonable, and it is not violative of any provisions of law and/or is contrary to any public policy.

 10. It is, therefore, considered expedient that the prayer for approval/sanction of the Scheme of Amalgamation be granted in terms of the prayer

in this petition confirming the said Scheme of Amalgamation. Accordingly, there will be orders in terms of prayers (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) & (l) of paragraph 14 of the petition.

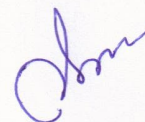
11. The Official Liquidator is hereby directed to file report regarding the affairs of the transferor company within a month with a copy to the counsel for the petitioners and thereafter the transferor company shall be dissolved without the process of winding up.

12. The parties to the amalgamation or other persons interested shall be at liberty to apply to this Tribunal for any directions that may be necessary in regard to the working of the amalgamation.

13. The petitioner companies do file with the Registrar of the companies a certified copy of this order within 30 days of the receipt of this order.

14. Let the Registrar of this Tribunal draw up necessary order in Form No.CAA.7 of the companies (Compromises, Arrangements & Amalgamations) Rules, 2016 with such necessary variations.

15. The Schedule of Properties shall be furnished by the Transferor Company to the Registrar of this Tribunal in accordance with Form No.CAA.7 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016, within 6 weeks.



Member (Judicial)
National Company Law Tribunal,
Guwahati Bench, Guwahati.

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