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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**CP (CAA) No. 62/NCLT/AHM/2017
With CA (CAA) No.45/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 18.08.2017**

Name of the Company: Presidency Leisure Ltd.
Presidency Tourism & Infrastructure Pvt Ltd
Krishna Portland Pvt Ltd.
Ghadokhop Agro Farms Pvt Ltd.
Baje Agro Farms Pvt Ltd.
Nanel Agro Farms Pvt Ltd. (Joint Application)
Presidency Hospitality Ltd.

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


S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1.

ORDER

None present for Petitioner.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 18th day of August, 2017.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

CP(CAA) No. 62/NCLT/AHM/2017

In the matter of :-

1. Presidency Leisure Limited,
Having its Registered Office at
Plot No. 9, Akshay Apartments,
R. V. Desai Road, Vadodara,
Gujarat-390001. ... Petitioner / Transferor Company No. 1

AND

2. Presidency Tourism & Infrastructure
Private Limited,
Having its Registered Office at
102, Niharika Apartment-II,
Behind National Plaza,
R. C. Dutt Road, Alkapuri,
Vadodara,
Gujarat-390007. ... Petitioner / Transferor Company No. 2

AND

3. Krishna Portland Private Limited
Having its Registered Office at
506, Plot No. 493, Village-Tundav,
Ta-Savli, Dist-Vadodara,
Gujarat-391775. ... Petitioner / Transferor Company No. 3

AND

4. Ghadokhop Agro Farms Private Limited,
Having its Registered Office at
EX-2, Anandvan Complex,
B/H. Aangan Towers,
Manjalpur, Vadodara,
Gujarat-390011 ... Petitioner / Transferor Company No. 4

AND

5. Baje Agro Farms Private Limited
Having its Registered Office at
EX-2, Anandvan Complex,
B/H. Aangan Towers,
Manjalpur, Vadodara,
Gujarat-390011 ... Petitioner / Transferor Company No. 5

AND

6. Nanel Agro Farms Private Limited

Having its Registered Office at
EX-2, Anandvan Complex,
B/H. Aangan Towers,
Manjalpur, Vadodara,
Gujarat-390011

... Petitioner / Transferor Company No. 6

WITH

7. Presidency Hospitality Limited
Having its Registered Office at
R. S. No. 532/10, Behind Alkapuri
Petrol Pump, Besides National Plaza,
Vadodara-390005

... Petitioner / Transferee Company

Order delivered on 18th August, 2017

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

Appearance:

Mr. Kiran Shah, FCA for the Petitioners.

ORDER

1. By the way of this joint petition under section 230 to 232 of the Companies Act, 2013, the petitioner companies are seeking sanction of a Scheme of Amalgamation of Presidency Leisure Ltd. (Petitioner Transferor Company No. 1) and Presidency Tourism & Infrastructure Pvt. Ltd. (Petitioner Transferor Company No. 2) and Krishna Portland Pvt. Ltd. (Petitioner Transferor Company No. 3) and Ghadokhop Agro Farms Pvt. Ltd. (Petitioner Transferor Company No. 4) and Baje Agro Farms Pvt. Ltd. (Petitioner Transferor Company No. 5) and Nanel Agro Farms Pvt. Ltd. (Petitioner Transferor Company No. 6) with Presidency Hospitality Ltd. (Petitioner Transferee Company) and their respective

shareholders and creditors, with effect from the Appointed Date ["Scheme" for short].

2. The Petitioners herein had filed a Joint Company Application, being Company Application No. 45 of 2017, before this Tribunal, seeking dispensation of meetings of shareholders and creditors of the Petitioner companies for the purpose of considering and, if thought fit, approving with or without modifications(s), the proposed Scheme of Amalgamation. This Tribunal, vide order dated 12th May, 2017 made in the said Company Application, dispensed with the meetings of shareholders and secured / unsecured creditors on the basis of the consent letters received by the respective companies. However, the meetings of secured/ unsecured creditors was dispensed with based on an undertaking that notice of final hearing would be served upon them.

3. Vide the aforesaid order dated 12th May, 2017, the Petitioner Companies were directed to serve Notice of the Scheme to the Regulatory Authorities-viz. (i) Central Govt. through the Regional Director, North-Western Region, (ii) Registrar of Companies, Gujarat, (iii) Income Tax Authorities; and (iv) Official Liquidator (only in respect of the Transferor Companies) along with requisite documents and disclosures. The notices were duly served on all the authorities between 18th May, 2017

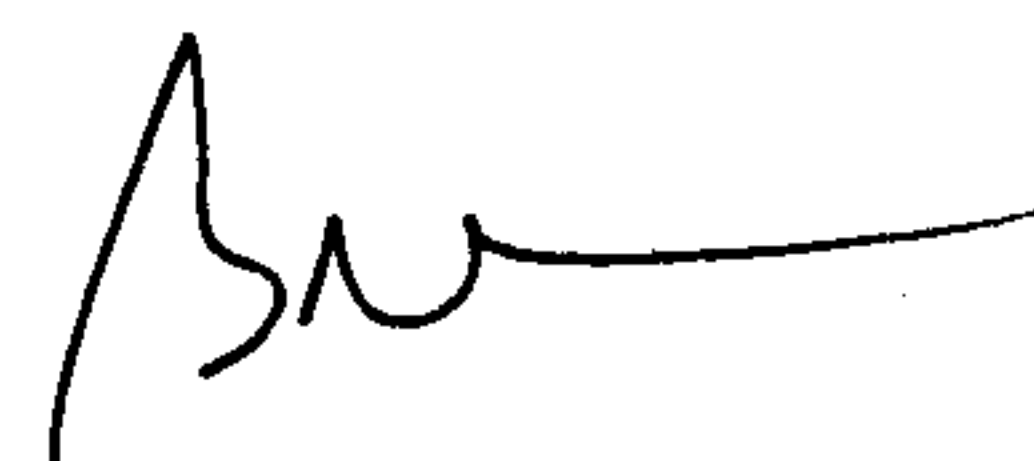
and 24th May, 2017. The petitioners have produced proof of service of notice on all the above Statutory Authorities as Exhibit-A to the petition. In response to the said notice, a representation dated 22nd June, 2017 was received from the Regional Director, Western Region and representations dated 17th July, 2017 were received from the Office of the Official Liquidator. In response to the notice, a communication dated 23rd May, 2017 addressed by Income-tax Officer, Ward-1(1)(3), Vadodara, in respect of one of the transferor companies, i.e. M/s. Ghadokhop Agro Farms Private Limited, was received by the Registry on 2nd June, 2017.

4. The petitioners, thereafter, filed the present petition before this Tribunal seeking sanction of the Scheme.
5. This Tribunal, by order dated 18th July, 2017, fixed the date of hearing of the petition on the 4th August, 2017 and directed all the petitioner companies to publish common notice of hearing of the petition by way of advertisement in English daily "Indian Express - Vadodara Edition" and Gujarati daily "Sandesh Daily" - Vadodara Edition", not less than 10 days before the date fixed for hearing calling for objections, if any, on or before the date of hearing. The petitioners were also directed to issue individual notices to all secured and unsecured creditors

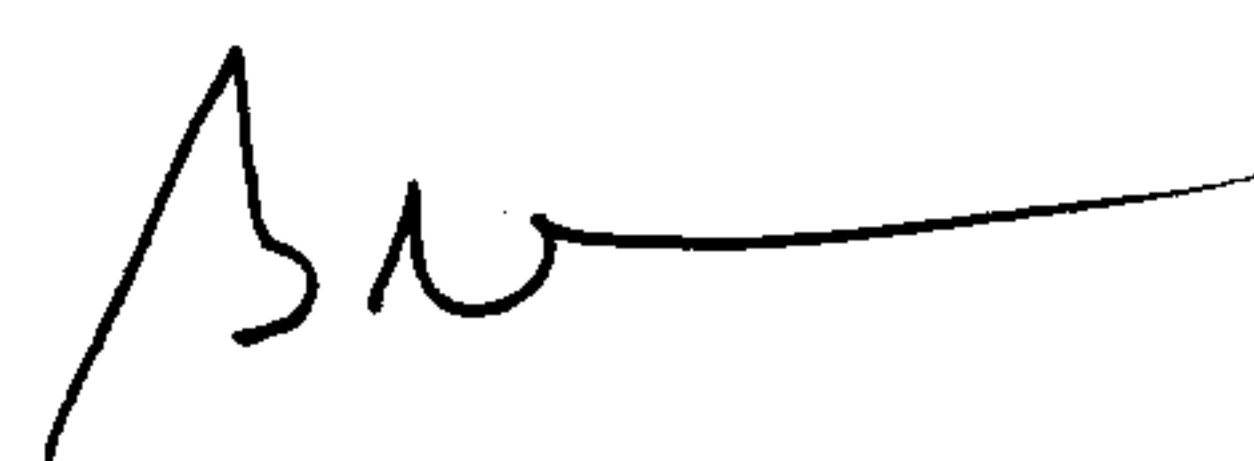
and to file proof of service, calling for their objections, if any, on or before the date of hearing. This Hon'ble Tribunal also directed issuance of notice to (i) the Central Government through the Regional Director, (ii) Registrar of Companies, Gujarat, Dadra and Nagar Haveli, (iii) concerned Income Tax Authorities and (iv) Official Liquidator informing them the date of hearing of the petition.

6. All the petitioners have filed affidavits in respect of service of notices to secured and unsecured creditors and publications made in the newspapers as well as affidavit of service of notices to Regulatory Authorities. In response to such individual notice and the publications made in newspapers, no objection is received from any of the creditors. However, the representations filed by the Income Tax Department, the Regional Director, the Official Liquidator and the Registrar of Companies in the proceedings would be taken into consideration hereinafter.

7. Heard Mr. Kiran Shah, Chartered Accountant, for the petitioner companies.



8. In response to the notice of this Hon'ble Tribunal, the Official Liquidator filed representation. In paragraph 11 of the representation in respect of petitioner No.1- Presidency Leisure Limited, it has been observed by the Official Liquidator that as per the order of this Tribunal dated 12.05.2017, there were no secured creditors in the applicant transferor company No. 1. However, as per Ministry of Corporate Affairs portal of Company Master Data it is shown that the company has created a charge on 04.01.1999 in favour of The Ahmedabad Mercantile Co-operative Bank Limited for Rs. 50 Lakhs. The transferor company's letter dated 07.07.2017 intimated the Official Liquidator's office that the said charge had been satisfied and concerned e-form also filed with the Registrar of Companies along with NOC from secured creditor, which is yet to be taken on record. Hence, in view of the above, at present, no secured creditor stands in the books of account of the company. In this regard, in paragraph (i) of the affidavit filed by the petitioner companies, it is stated that in respect of Clause No. 11 of OL Report, charge shown on MCA portal in the matter of one of the Transferor companies, viz. M/s. Presidency Leisure Limited, reflecting charge created for an amount of Rs. 50 lakhs on 04.01.1999 in favour of The Ahmedabad Mercantile Co. Op. Bank Ltd. which was, in fact, satisfied by the company on 27.05.2004 and No Due Certificate was issued by the



concerned bank. However, necessary formalities to satisfy the said charge with the Registrar of Companies are left to be carried out and, hence, shown on MCA portal. It is stated in the reply affidavit that the company has already filed Form CHG-4 as on 25th day of July, 2017 for satisfaction of charge and Form CHG-8- Petition with Regional Director for condonation of delay as on 1st day of August, 2017.

9. In paragraph 12 of the representation in respect of Transferor Company No.1, the Official Liquidator has observed from Clause 13.1 of the Scheme that Authorised Capital of the transferor companies viz. Rs. 1,63,00,000/- shall be added to the Authorised Capital of the transferee company, and the entire Authorised Capital of the transferor companies and transferee company shall be Rs. 8,13,00,000/- but as per Clause 13.1 of the Scheme and sub-clause v of the Memorandum of Association of the transferee company, the Authorised Capital is shown as Rs. 8,80,00,000/- on effective date, without any further act or deed and without any further payment of the stamp duty or registration fees. In this regard, the official liquidator sought clarification from the transferor company vide letter dated 11.07.2017 and in response to letter dated 11.07.2017, the transferor company has furnished its reply dated 11.07.2017 and explained that

the remaining Authorised Capital of Rs. 67,00,000/- shall be increased by the transferee company by complying the necessary legal procedures / formalities as per the provisions of the Companies Act, 2013. In this regard, in paragraph (ii) of the affidavit filed by the petitioner companies, it is stated that in respect of Authorised Capital in Clause 13.1 of the Scheme of Amalgamation, an Authorised Capital after the effect of the above Scheme of Amalgamation as mentioned in Clause 13.1 of the Scheme of Amalgamation for an amount of Rs. 8,80,00,000/- will be total requirements by the transferee company after the issue of equity shares to the transferor companies to give effect of the Scheme of Amalgamation whereas, upon coming into effect of the Scheme of Amalgamation, the Authorised Capital of the transferor companies viz. Rs. 1,63,00,000/- or such amount as may be on the effective date, shall be added to the Authorised Capital of the transferee company, as on the effective date, without any further act or deed and without any further payment of stamp duty or registration fees which would result into total Authorised Capital of Rs. 8,13,00,000/- along with the Authorised Capital of the transferee company of Rs. 6,50,00,000/- and balance of the Authorised Capital of Rs. 67,00,000/- shall be raised by the transferee company by complying the necessary legal procedures / formalities as per the provisions of the Act to comply with the

requirements of issue of equity shares of the transferee company to give effect of the Scheme of Amalgamation.

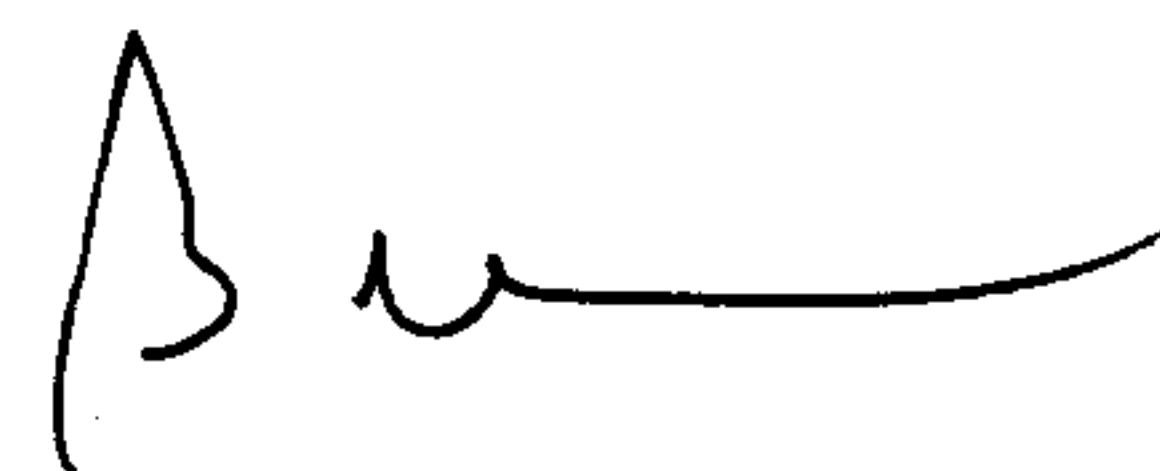
10. In paragraph 14 of the representation, the Official Liquidator has sought directions to preserve the books of accounts, papers and records and not to dispose of the same without prior permission of the Central Government as per provisions of the Section 239 of the Companies Act, 2013. Accordingly, the transferee company is hereby directed to preserve the books of accounts, papers and records of all the transferor companies and not to dispose of the same without prior permission of the Central Government as required under Section 239 of the Companies Act, 2013. So far as the observation made by the Official Liquidator in paragraph 15 of the representation, It is hereby further directed that even after the Scheme is sanctioned, the transferor companies shall comply with all the applicable provisions of law and shall not be absolved from any of its statutory liability.

11. So far as the observations made by the Official Liquidator in paragraph 16 of the representation, it is further directed to the transferee company to increase the Authorised Capital as per the provisions of the Section 61 of the Companies Act, 2013 by filing e-form with the Registrar of Companies, Gujarat, Dadra and Nagar Haveli

for implementation of the Scheme for balance increase of Authorised Share Capital for an amount of Rs. 67,00,000/-.

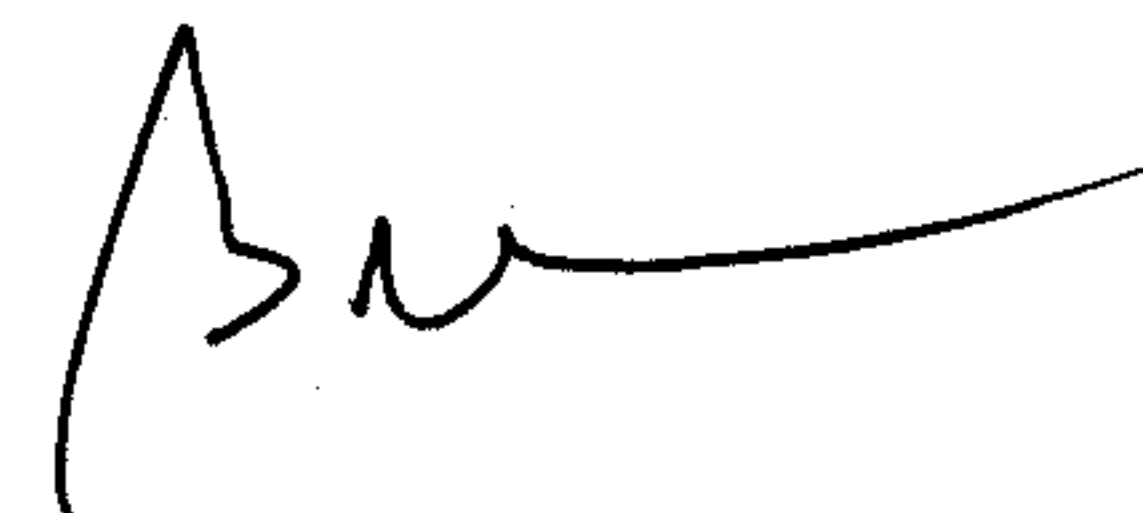
12. In response to the notice of the petition to the Central Government, the Regional Director, North-Western Region, Ministry of Corporate Affairs, filed a common representation on affidavit dated 22.06.2017, whereby no material observations are made and, therefore, the petitioner companies have not filed any reply to the common representation of the Regional Director.

13. In compliance with the proviso to sub-section (7) of the Section 230, the petitioner companies placed on record along with Company Application No. 45 of 2017, certificates issued by Chartered Accountant dated 1st March, 2017, confirming that the accounting treatment specified in Clause 10 of the Scheme of Arrangement is in compliance with the applicable Accounting Standards notified by the Central Government in Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies (Accounts) Rules, 2014 and other Generally Accepted Accounting Principles.

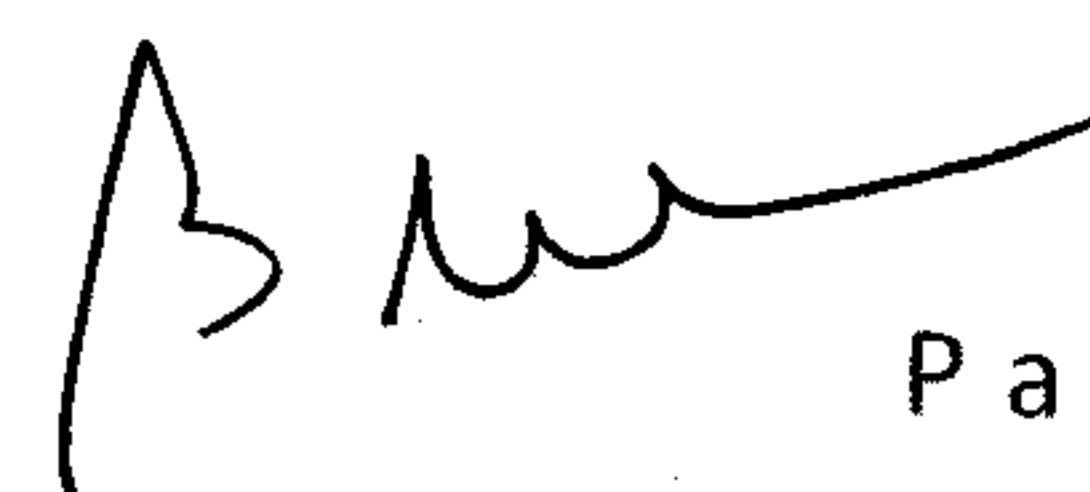


14. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents produced on record, it appears that all the requirements of Section 230 to 232 of the Companies Act, 2013 are satisfied. The Scheme appears to be genuine and *bona fide* and in the interest of the shareholders and creditors as well as in the public interest and the same deserves to be sanctioned.

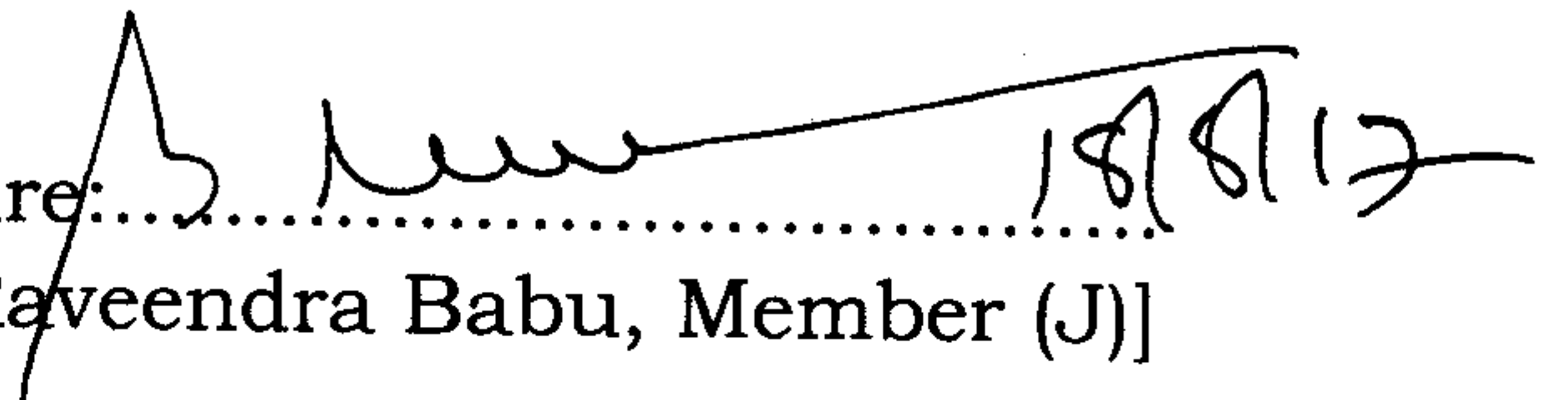
15. In the result, these petitions are allowed. The Scheme of Amalgamation is hereby sanctioned and it is declared that the same shall be binding on the petitioner companies, viz. Presidency Leisure Limited, Presidency Tourism & Infrastructure Private Limited, Krishna Portland Private Limited, Ghadokhop Agro Farms Private Limited, Baje Agro Farms Private Limited, Nanel Agro Farms Private Limited and Presidency Hospitality Limited and their respective shareholders, creditors and all concerned under the Scheme. It is also declared that transferor companies viz. Presidency Leisure Limited, Presidency Tourism & Infrastructure Private Limited, Krishna Portland Private Limited, Ghadokhop Agro Farms Private Limited, Baje Agro Farms Private Limited and Nanel Agro Farms Private Limited shall stand dissolved without winding up.



16. The fees of the Official Liquidator are quantified at Rs. 10,000/- each in respect of the petitioner transferor companies. The said fees to the Official Liquidator shall be paid by the transferee company.
17. It is ordered that the petitioner companies shall comply with Rule 17(2) of Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 with respect to filing of order, if any, for confirmation of the Scheme in form INC-28 with the Registrar of Companies having jurisdiction over the Petitioner Companies.
18. Taking into consideration the representation received from the Income Tax Department, it is observed that the sanctioning of the Scheme would not come in the way of the Income Tax Department for initiating any proceedings against the transferor companies for the period preceding the effective date of amalgamation.
19. Filing and issuance of drawn up orders is hereby dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Hon'ble Tribunal. The Registrar of this Hon'ble Tribunal shall issue the authenticated copy of this order along with the Scheme immediately.



20. This company petition is disposed of accordingly.

Signature:  18/8/17
[Bikki Raveendra Babu, Member (J)]

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