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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**CP (CAA) No. 66/NCLT/AHM/2017
With CA(CAA) No. 53/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: Adani Ports and Special Economic Zone Ltd.

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

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

1. ~~At~~ Sandeep Singhi for Advocate, Petitioners
Singhi & Co. 

2.

ORDER

Learned Advocate Mr. Sandeep Singhi present for Petitioner.

Common 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. 66/NCLT/AHM/2017

And

CP(CAA) No. 67/NCLT/AHM/2017

In the matter of :-

1. Adani Ports and Special Economic Zone Limited,
a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Adani House,
Near Mithakhali Six Roads,
Navrangpura,
Ahmedabad- 380 009.

... Petitioner Company
(Transferor Company)

And

2. The Adani Harbour Services Private Limited,
a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Adani House, Near Mithakhali Six Roads, Navrangpura,
Ahmedabad- 380 009.

... Petitioner Company
(Transferee Company)

Order delivered on 18th August, 2017

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

Appearance:

Mr. Sandeep Singhi and Mr. Pranjal Buch, advocates, for M/s. Singhi & Co., Advocates, for the Petitioner Companies.

COMMON ORDER

1. These are the petitions filed by the two Petitioner Companies for sanctioning of the Scheme of Arrangement



between Adani Ports and Special Economic Zone Limited and The Adani Harbour Services Private Limited and their respective shareholders and creditors (Scheme).

2. The Petitioner of the C.P. (CAA) No. 66/NCLT/AHM/2017, i.e., Adani Ports and Special Economic Zone Limited, had filed an application before this Tribunal, being C.A. (CAA) No. 53/NCLT/AHM/2017, seeking requisite directions for holding and convening separate meetings of the Equity Shareholders, Preference Shareholders, Secured Creditors (including debenture holders) and Unsecured Creditors of the said Company. This Tribunal vide its order dated 18.5.2017, inter alia, directed convening and holding of the meetings of the Equity Shareholders, Preference Shareholders, Secured Creditors (including debenture holders) and Unsecured Creditors of the said Company.

3. The Petitioner of the C.P. (CAA) No. 67/NCLT/AHM/2017, i.e., The Adani Harbour Services Private Limited, had filed an application before this Tribunal, being C.A. (CAA) 54/NCLT/AHM/2017, for dispensing with the convening and holding of the meeting of the Equity Shareholders of the Petitioner Company. This Tribunal vide its order dated 18.5.2017, inter alia, dispensed with the holding and convening of the meeting of the Equity Shareholders of the said Company. This Tribunal vide its order dated 18.5.2017 also noted that there

were no secured or unsecured creditors of the said Company as on 28.4.2017.

4. Notice of meetings was sent individually to the Equity Shareholders, Preference Shareholders, Secured Creditors (including debenture holders) and Unsecured Creditors of the Petitioner of C.P. (CAA) No. 66/NCLT/AHM/2017, i.e., Adani Ports and Special Economic Zone Limited, pursuant to the order dated 18.5.2017, together with a copy of the Scheme, a copy of the Explanatory Statement required to be furnished under Section 230-232 read with Section 102 of the Companies Act, 2013 and the prescribed Form of Proxy, amongst others. The notice of meetings was also advertised as directed by This Tribunal vide its order dated 18.5.2017 in English daily, "Indian Express", all Editions and Gujarati daily, "Gujarat Samachar", Ahmedabad Edition on 25.5.2017. Ms. Radhika Haribhakti, the Chairperson of the meetings has already filed the requisite affidavit dated 13.6.2017 in respect of service of notices and appearance of advertisements of the said notice amongst others. The arrangement embodied in the Scheme was approved by more than the requisite statutory majority in number and more than three-fourths in shareholding by the Equity Shareholders either in person or by proxy or by authorised representative, through postal ballot, e-voting and through voting at the venue and unanimously by the Preference Shareholders, Secured Creditors (including debenture holders) and Unsecured Creditors of the

said Company at the meetings held on 27.6.2017. The Chairperson's report dated 1.7.2017 has also been filed before this Tribunal along with the C.P. (CAA) No. 66/NCLT/AHM/2017.

5. The Petitioner Companies thereafter filed the present petitions, seeking sanction of the Scheme. This Tribunal by its orders dated 20.7.2017 admitted the aforesaid Company Petitions and directed issuance of notice of hearing of petition to (i) the Regional Director, (ii) Reserve Bank of India, (iii) Income tax authorities and (iii) Official Liquidator in case of C.P. (CAA) No. 66/NCLT/AHM/2017 and to (i) the Regional Director, (ii) Reserve Bank of India and (iii) Income tax authorities in case of C.P. (CAA) No. 67/NCLT/AHM/2017. This Tribunal also directed publication of notice of hearing of the petitions in English daily, "Indian Express", All Editions and in Gujarati daily, "Gujarat Samachar", Ahmedabad Edition in respect of C.P. (CAA) No. 66/NCLT/AHM/2017 and in English daily, "Indian Express", Ahmedabad Edition and in Gujarati daily, "Gujarat Samachar", Ahmedabad Edition in respect of C.P. (CAA) No. 67/NCLT/AHM/2017.

6. Pursuant to the order dated 20.7.2017 passed by this Tribunal, the Petitioner of C.P. (CAA) No. 66/NCLT/AHM/2017 have published the notice of hearing of the petition in English

daily, "Indian Express", All Editions and in Gujarati daily, "Gujarat Samachar", Ahmedabad Edition on 23.7.2017. Further, the Petitioner of C.P. (CAA) No. 67/NCLT/AHM/2017 has also published the notice of hearing of the petition in English daily, "Indian Express", Ahmedabad Edition and in Gujarati daily, "Gujarat Samachar", Ahmedabad Edition on 23.7.2017. The affidavits of service, on behalf of both the Petitioner Companies, dated 31.7.2017, have been filed confirming the publication of the notice in the newspapers as directed and also the notice of hearing of the petitions being served upon the concerned statutory authorities.

7. In response to the notice to the Regional Director, Ministry of Corporate Affairs, the Regional Director has filed common representation dated 22.6.2017. In paragraph 2 (e) of the said common representation it is mentioned by the Regional Director that Adani Ports and Special Economic Zone Limited should comply with of the SEBI Circulars.

8. Heard learned Advocate, Mr. Sandeep Singhi, for M/s Singhi & Co, Advocates for the Petitioner Companies.

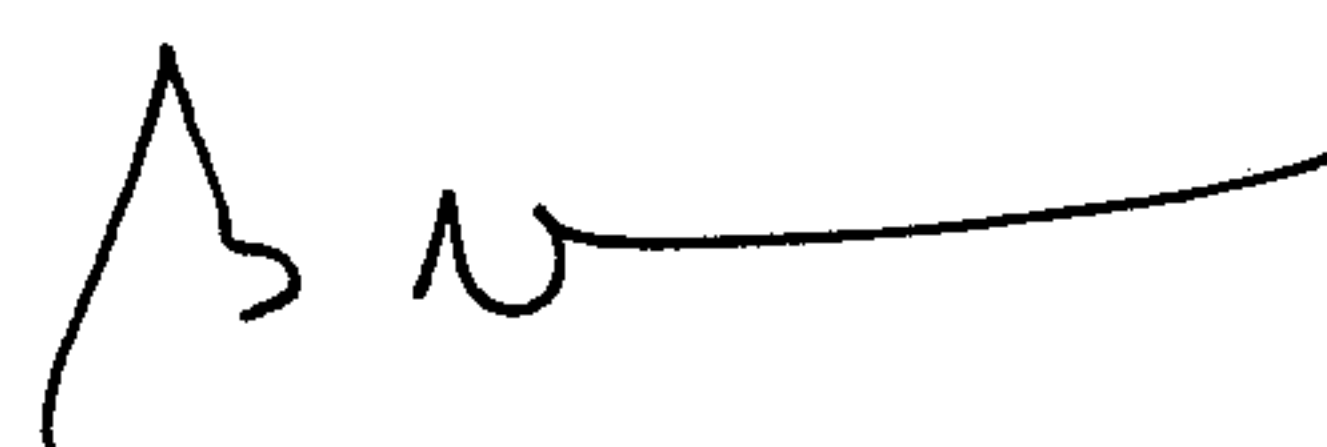
9. Mr. Singhi, stated that one of the Petitioner Companies, namely Adani Ports and Special Economic Zone Limited, has filed necessary affidavit in reply dated 12.7.2017 to the common representation dated 22.6.2017 filed by the Regional Director.

The Petitioner Company in paragraph 3 of its reply has, inter alia, stated that the Petitioner Company has complied with the said SEBI Circulars. In light of the aforesaid, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(e) of the common representation stands satisfied.

10. In response to the notice to the Official Liquidator in the aforesaid Petitions, the Official Liquidator has filed a representation dated 23.6.2017 in C.P. (CAA) No. 66/NCLT/AHM/2017 to which Adani Ports and Special Economic Zone Limited has filed its affidavit dated 12.7.2017.

11. In respect of the observations made by the official Liquidator in paragraph 16 of its report, in paragraph 3 of its reply, it is stated that The Adani Harbour Service Private Limited would be paying the consideration to Adani Ports and Special Economic Zone Limited through Real Time Gross Settlement System (RTGS) or Electronic Clearing System (ECS) only.

12. In respect of the observations made by the Official Liquidator in paragraph 17 of its representation, in paragraph 4 of its reply it is stated that the provisions of Section 239 of the Companies Act, 2013 are not applicable to the facts of the present case. However, Adani Ports and Special Economic Zone Limited shall preserve its books of accounts, papers and records



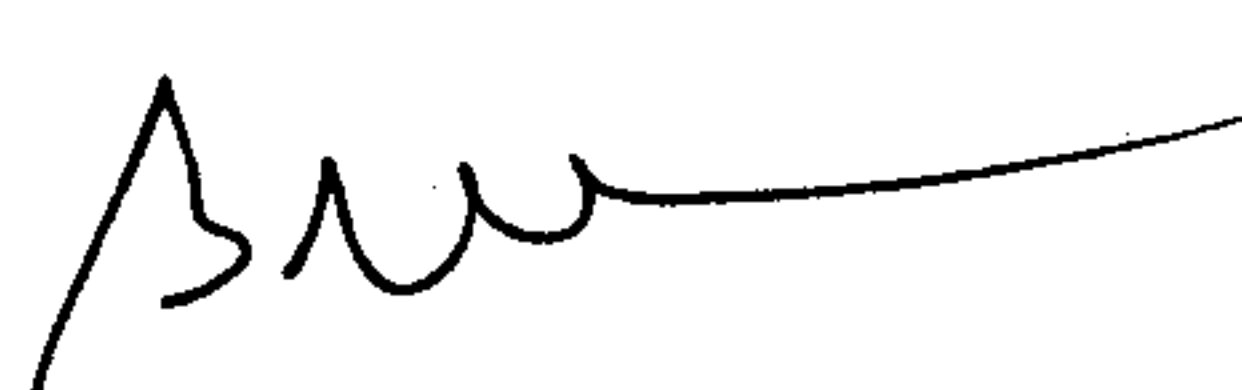
and shall not be disposed of without the prior permission of the Central Government.

13. In respect of the observations made by the Official Liquidator at paragraph 18 of its report, it is submitted in paragraph 5 of the reply that the Scheme nowhere prescribes with regard to absolving the statutory liability of Adani Ports and Special Economic Zone Limited.

14. In compliance with the proviso to sub-section (7) of Section 230, the petitioner companies placed on record along with the Company Applications certificates issued by their Auditors confirming that the accounting treatment envisaged in the Scheme of Arrangement is in compliance with the applicable Accounting Standards prescribed in Section 133 of the Companies Act, 2013.

15. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the proceedings, it appears that the requirements of the provisions of sections 230-232 of the Companies Act, 2013 are satisfied. The Scheme is genuine and *bona fide* and in the interest of the shareholders and creditors.

16. In the result, these petitions are allowed. The Scheme, which is at Annexure-G to the petitions, is hereby sanctioned and

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it is declared that it shall be binding on the petitioner companies, their equity shareholders, preference shareholders, secured creditors (including debenture holders), unsecured creditors and all persons concerned under the Scheme.

17. Fees of Official Liquidator are quantified at Rs.15,000/- in C.P. (CAA) No. 66/NCLT/AHM/2017. The said fees would be paid by Adani Ports and Special Economic Zone Limited.

18. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order along with Scheme immediately.

19. These Company Petitions are disposed of accordingly.

Signature:.....
[Bikki Raveendra Babu, Member (J)]

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