

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

CP(CAA) No. 30/NCLT/AHM/2017  
In CA (CAA) No. 6 /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 18.05.2017**

Name of the Company: ZyduS Healthcare Ltd.

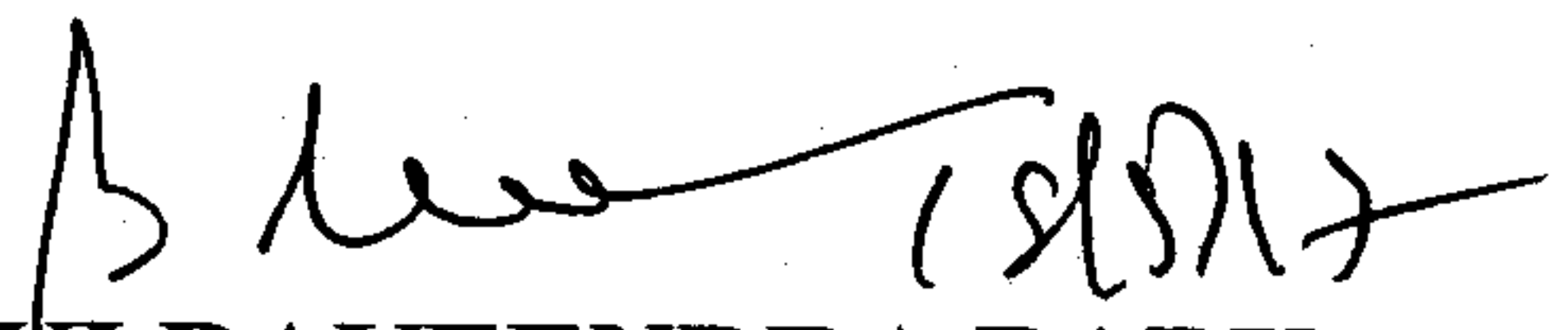
Section of the Companies Act: Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Sandeep Singhi	Advocate	Petitioner	} 
2.	Pranjal Buch for Singhi & Co.	"	"	

**ORDER**

Learned Advocate Mr. Sandeep Singhi with Learned Advocate Mr. Pranjal Buch present for Petitioner.

Common order pronounced in open Court. Vide separate sheet.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 18th day of May, 2017.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. (CAA) No. 29/230-232/NCLT/AHM/2017  
IN  
CA (CAA) No. 5/230-232/NCLT/AHM/2017  
AND  
C.P. (CAA) No. 30/230-232/NCLT/AHM/2017  
IN  
CA (CAA) No. 6/230-232/NCLT/AHM/2017**

**CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**

**Date: 18<sup>th</sup> day of May, 2017**

In the matter of: -

Cadila Healthcare Limited,  
a company incorporated under the  
provisions of the Companies Act,  
1956 and having its registered office  
at Zydus Tower, Satellite Cross  
Roads, Sarkhej-Gandhinagar  
Highway, Ahmedabad-380 015.

... Petitioner Transferor Company

And

Zydus Healthcare Limited,  
a company incorporated under the  
provisions of the Companies Act,  
1956 and having its registered  
office at Zydus Tower, Satellite  
Cross Roads, Sarkhej-Gandhinagar  
Highway, Ahmedabad-380 015.

... Petitioner Transferee Company

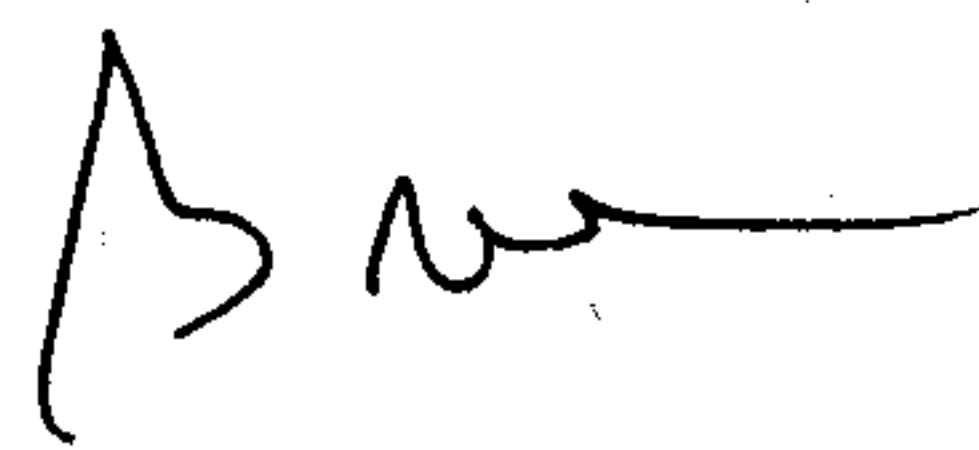
**Appearance:**

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

**COMMON FINAL ORDER**

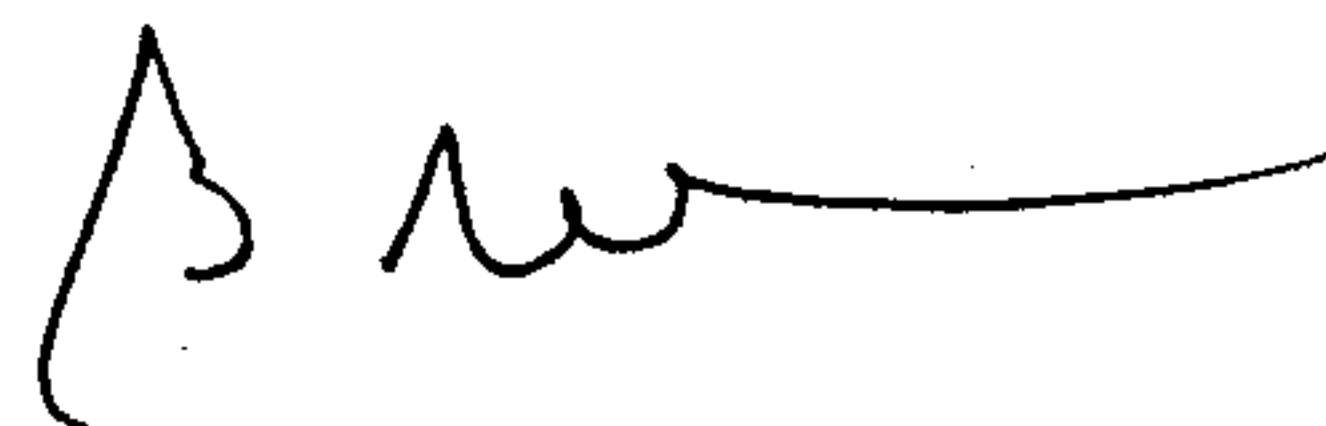
(Date:18.05.2017)

1. These are the petitions filed by the two Petitioner Companies for sanctioning of the Scheme of Arrangement between Cadila Healthcare Limited ("transferor-company")



and Zydus Healthcare Limited (“transferee company”) and their respective shareholders and creditors (Scheme).

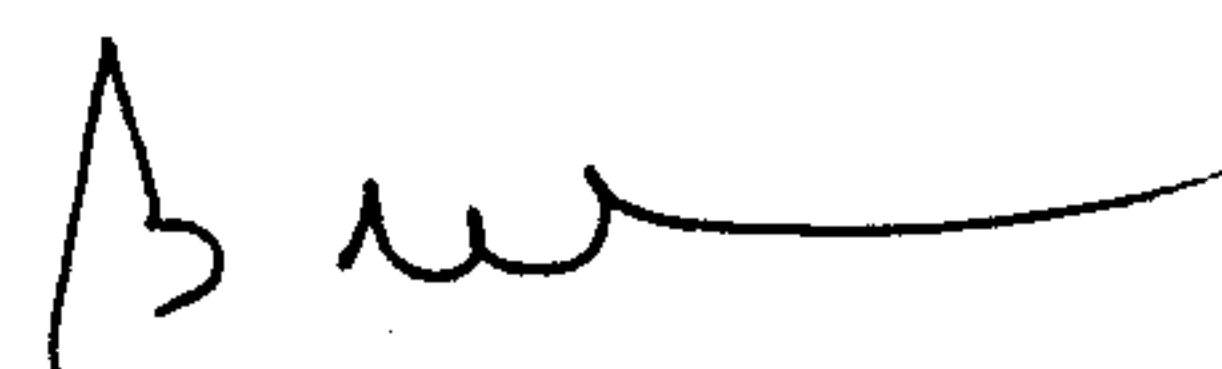
2. The Petitioner of the C.P. (CAA) No. 29/230-232/NCLT/AHM/2017, i.e., Cadila Healthcare Limited, had filed an application before this Tribunal being CA(CAA) No. 5/230-232/NCLT/AHM/2017 for the requisite directions for holding and convening separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the said Company. This Tribunal vide its order dated 15.2.2017 as rectified by order dated 21.2.2017, inter alia, directed convening and holding of the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the said Company.
3. The Petitioner of the C.P. (CAA) No. 30/230-232/NCLT/AHM/2017, i.e., Zydus Healthcare Limited, had filed an application before this Tribunal being CA(CAA) 6/230-232/NCLT/AHM/2017 for dispensing with the convening and holding of the meetings of the Equity Shareholders, Preference Shareholders, Secured Creditor and Unsecured Creditors of the Petitioner Company. This Tribunal vide its order dated 15.2.2017 and as rectified by order dated 21.2.2017, inter alia, directed convening and holding of the meetings of the Equity Shareholders, Preference Shareholders, Secured Creditors and Unsecured Creditors of the said Company.
4. Notice of meetings was sent individually to the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Petitioner of CP (CAA) No. 29/230-





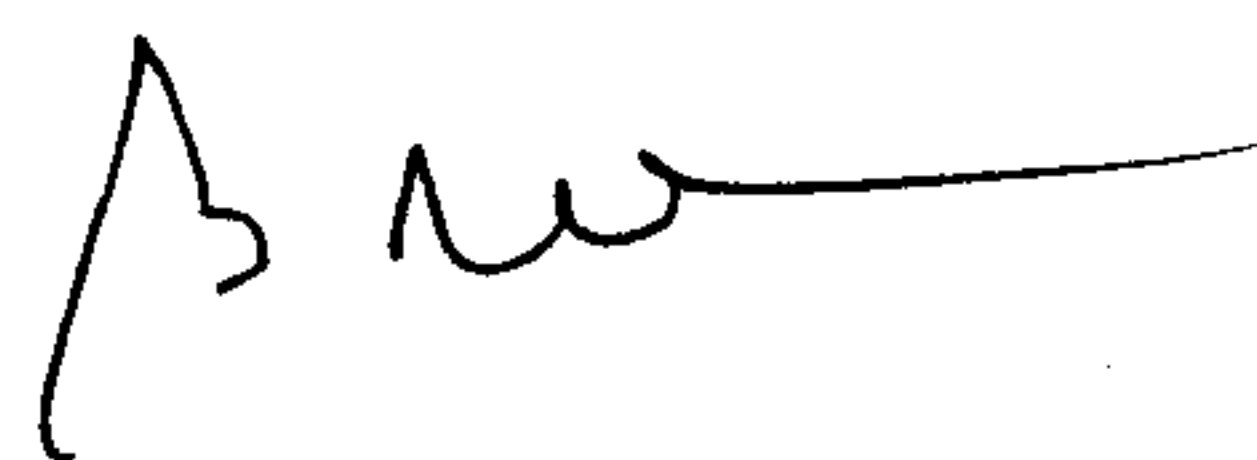
232/NCLT/AHM/2017, i.e., Cadila Healthcare Limited, pursuant to the order dated 15.2.2017, together with a copy of the Scheme, a copy of the Explanatory Statement required to be furnished under Section 230-232 read with Section 102 of the Companies Act, 2013 and the prescribed Form of Proxy, amongst others. The notice of meetings was also advertised as directed by This Tribunal vide its order dated 15.2.2017 in English daily, "Indian Express", all Editions and Gujarati daily, "Sandesh", Ahmedabad Edition on 26.2.2017. Mr. Humayun Dhanrajgir, the Chairman of the meetings has already filed the requisite affidavit dated 10.3.2017 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 Secured Creditors and Unsecured Creditors of the said Company at the meetings held on 30.3.2017.

5. Notice of meetings was sent individually to the Equity Shareholders, Preference Shareholders, Secured Creditor and Unsecured Creditors of the Petitioner of CP (CAA) No. 30/230-232/NCLT/AHM/2017, i.e., Zydus Healthcare Limited, pursuant to the order dated 15.2.2017, 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



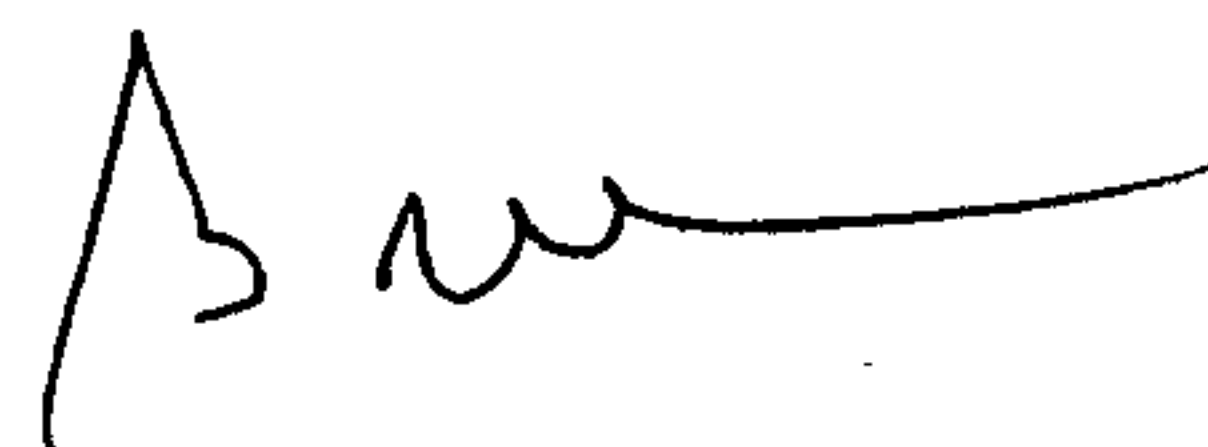
meetings was also advertised as directed by This Tribunal vide its order dated 15.2.2017 in English daily, "Indian Express" and Gujarati daily, "Sandesh", both in Ahmedabad Edition on 26.2.2017. Mr. Deevyesh Radia, the Chairman of the meetings has already filed the requisite affidavit dated 16.3.2017 in respect of service of notices and appearance of advertisements of the said notice in newspapers. The arrangement embodied in the Scheme was approved unanimously by the Equity Shareholders, Preference Shareholders, Secured Creditor and Unsecured Creditors of the said Company at the meetings held on 30.3.2017.

6. The Petitioner Companies thereafter filed the present petitions seeking sanction of the Scheme. This Tribunal by its orders dated 17.4.2017 admitted these Petitions and directed issuance of notice of hearing of the petitions to (i) the Regional Director, and (ii) the Registrar of Companies, Gujarat. In CP(CAA) No.29 of 2017, this Tribunal also directed issuance of notice of hearing of the petition also to the Official Liquidator. This Tribunal also directed publication of notice of hearing of the petitions in English daily, "Indian Express", all Editions and in Gujarati daily, "Sandesh", Ahmedabad Edition in respect of CP(CAA) No.29 of 2017 and in English daily, "Indian Express", Ahmedabad Edition and in Gujarati daily, "Sandesh", Ahmedabad Edition in respect of C.P. (CAA) No. 30 of 2017.
7. Pursuant to the order dated 17.4.2017 passed by this Tribunal, the Petitioner companies published the notice of



hearing of the petitions in English daily, "Indian Express", and in Gujarati daily, "Sandesh", as directed by this Tribunal, on 19.4.2017. Affidavits of service dated 26.4.2017, on behalf of both the petitioner companies, have been filed confirming publication of the notice in the newspapers as directed and serving of notice of hearing of the petitions upon the concerned statutory authorities.

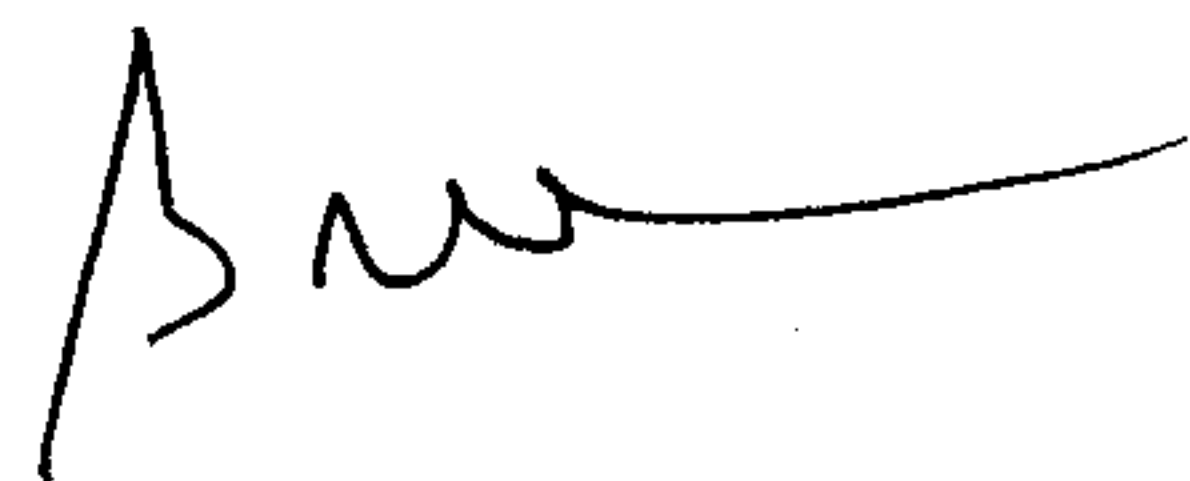
8. Heard learned Advocate, Mr. Sandeep Singhi, for Singhi & Co., Advocates, for the petitioner-companies.
9. In response to the notice to the Regional Director, Ministry of Corporate Affairs, the Regional Director has filed common representation dated 23.3.2017. In paragraph 2 (c) of the said common representation it is mentioned by the Regional Director that Cadila Healthcare Limited should comply with of the SEBI Circular No. CIR/CFD/DIL/5/2013 dated 4.2.2013 read with SEBI Circular No. CIR/CFD/DIL/8/2013 dated 21.5.2013 and SEBI Circular No. CIR/CFD/CMD/16/2015 dated 30.11.2015. In paragraph 2 (d) of the said common representation it is mentioned by the Regional Director that this Tribunal be pleased to direct the Petitioner Companies to submit the complete list of assets and liabilities pertaining to the proposed demerged undertaking. In paragraph 2 (e) of the said common representation it is mentioned by the Regional Director that this Tribunal be pleased to direct Cadila Healthcare Limited to ensure about the compliances of FEMA and RBI guidelines. In paragraph 2 (f) of the said common representation it is mentioned by the Regional Director that this Tribunal be pleased to direct Zydus Healthcare



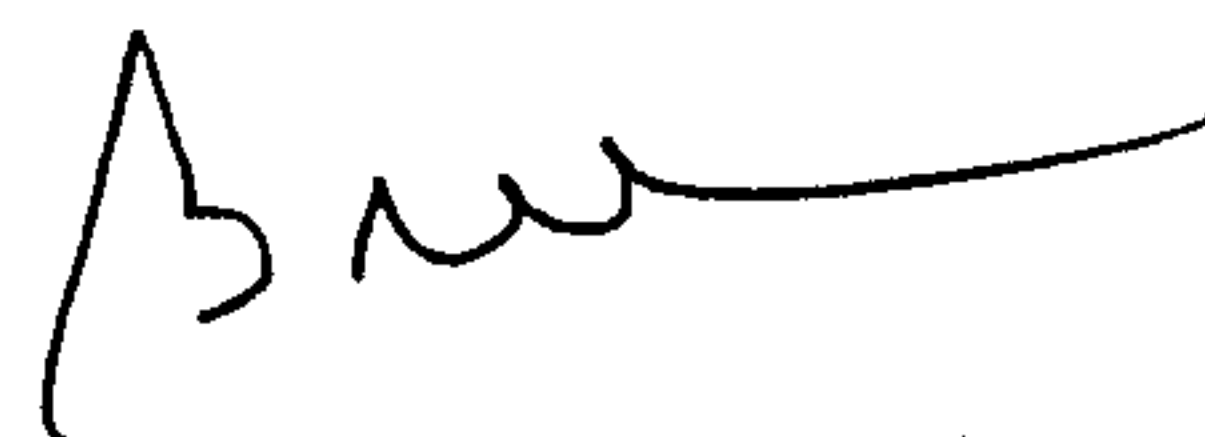


Limited to place on record all the relevant facts in the matter and to satisfy that, the contingent liabilities, in case they get invoked, will not affect the financial position of the company adversely so as to impact the liquidity of the company and its continuance/going concern concept. In paragraph 2 (g) of the said common representation it is mentioned by the Regional Director that this tribunal be pleased to direct the Petitioner Companies to undertake compliance of the Income Tax Act and Rules.

10. Mr. Singhi, learned advocate for the petitioner-companies, stated that one of the Petitioner Companies, namely Cadila Healthcare Limited, has filed necessary affidavit in reply dated 11.04.2017 to the common representation dated 23.3.2017 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(c) of the common representation stands satisfied.
11. In respect of the observations made by the Regional Director at paragraph 2(d) of the common representation, Cadila Healthcare Limited has produced the statements of assets and liabilities of the India Human Formulations Undertaking of Cadila Healthcare Limited as on 1.4.2016 at Annexure-A to the reply dated 11.04.2017. In light of the aforesaid, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(d) of the common representation stand satisfied.



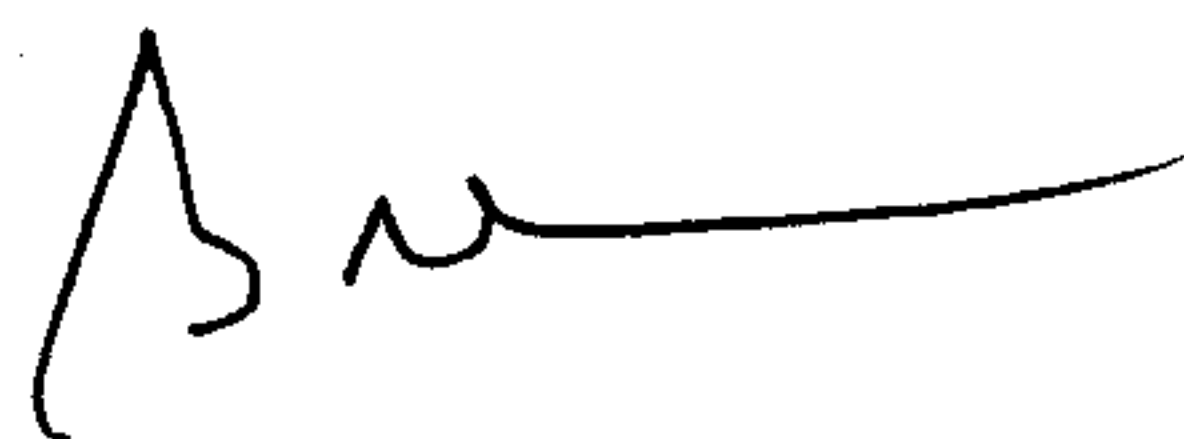
12. In respect of the observations made by the Regional Director at paragraph 2(e) of the common representation, the Petitioner Company in paragraph 5 of its reply has, inter alia, stated that, under the Scheme, the Petitioner Company is not required to obtain any prior permission of FEMA or RBI. It is further stated that the shareholders of the Petitioner Company will not be allotted any shares by Zydus Healthcare Limited pursuant to the sanctioning of the Scheme by this Tribunal as Zydus Healthcare Limited will pay a consideration to the Petitioner Company for transfer and vesting of the India Human Formulations Undertaking of the Petitioner under the provisions of Section 2(42C) of the Income Tax Act, 1961. It is further stated that the Petitioner Company had also sent the notice under Section 230(5) of the Companies Act, 2013 to RBI to which the Petitioner Company has not received any representation from RBI. In light of the same, the observations of the Regional Director at paragraph 2(e) of the common affidavit stand answered.
13. In respect of the observations made by the Regional Director at paragraph 2(f) of the common representation, Cadila Healthcare Limited has submitted in paragraph 6 of its reply that the contingent liabilities mentioned in the paragraph under reply would not affect the financial position of the Petitioner Company. It was further submitted that the said contingent liabilities are not the debts due and payable by the Petitioner Company and that the net worth of the Petitioner Company as on 31.3.2016 is approximately Rs. 6,134.40 crores. In the circumstances, assuming that any of such contingent liabilities crystalizes, the Petitioner Company would be in





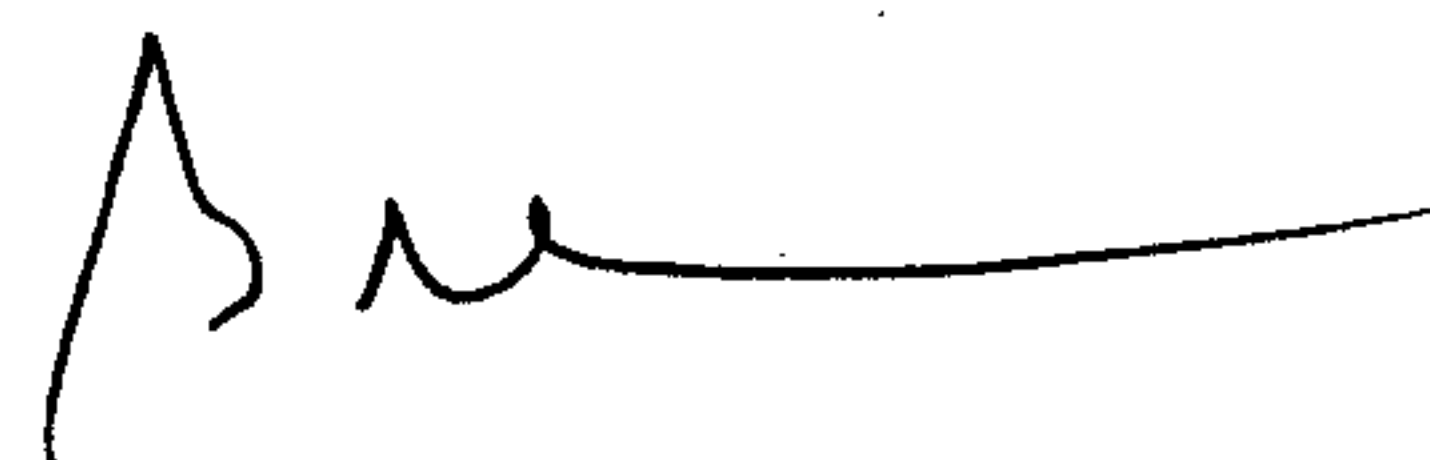
a position to discharge such liabilities in its ordinary course of business. The Petitioner Company has also annexed the audited financial statements of Cadila Healthcare Limited as on 31.3.2016 at Annexure-B to the reply affidavit. In light of the aforesaid, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(f) of the common representation stand satisfied.

14. In respect of the observations made by the Regional Director at paragraph 2(g) of the common representation, the Petitioner Company in paragraph 7 of its reply has stated that the Scheme is in compliance with the provisions of Section 2(42C) of the Income Tax Act, 1961. Mr. Singhi has further submitted that pursuant to the notice dated 23.2.2017 under Section 230(5) of the Companies Act, 2013 issued by Cadila Healthcare Limited and Zydus Healthcare Limited, respectively, to the concerned Income Tax Department, both the companies have received copy of the representation from the concerned offices of the Deputy Commissioner of Income-Tax, inter alia, stating that the office of Income-Tax has no objection to the proposed Scheme, which are annexed to CP (CAA) No. 29 of 2017 as Annexure "V (Colly)" and to CP (CAA) No. 30 of 2017 as Annexure "U (Colly)". In light of the aforesaid, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(g) of the common representation stand satisfied.
15. In response to the notice to the Official Liquidator in the aforesaid Petitions, the Official Liquidator has filed his report dated 29.3.2017 in CP(CAA) No. 29 of 2017 to which



Cadila Healthcare Limited has filed its affidavit dated 11.4.2017.

16. In respect of the observations made by the Official Liquidator in paragraph 15 of its report, in paragraph 3 of its reply, it is stated that the Chairman appointed for the meeting has filed his report dated 1.4.2017 before this Tribunal, which is also annexed to the petition of the transferor company at Annexure "U" .
17. In respect of the observations made by the official Liquidator in paragraph 16 of its report, in paragraph 4 of its reply, it is stated that Zydus Healthcare Limited would be paying the consideration to Cadila Healthcare Limited through Real Time Gross Settlement System (RTGS) or Electronic Clearing System (ECS) only.
18. In respect of the observations made by the official Liquidator in paragraph 17 of its report, in paragraph 5 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, Cadila Healthcare Limited shall preserve its books of accounts, papers and records and shall not be disposed of without the prior permission of the Central Government.
19. In respect of the observations made at paragraph 18 of its report, it is submitted in paragraph 6 of the reply that the Scheme nowhere prescribes with regard to absolving the statutory liability of Cadila Healthcare Limited.
20. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the proceedings, it

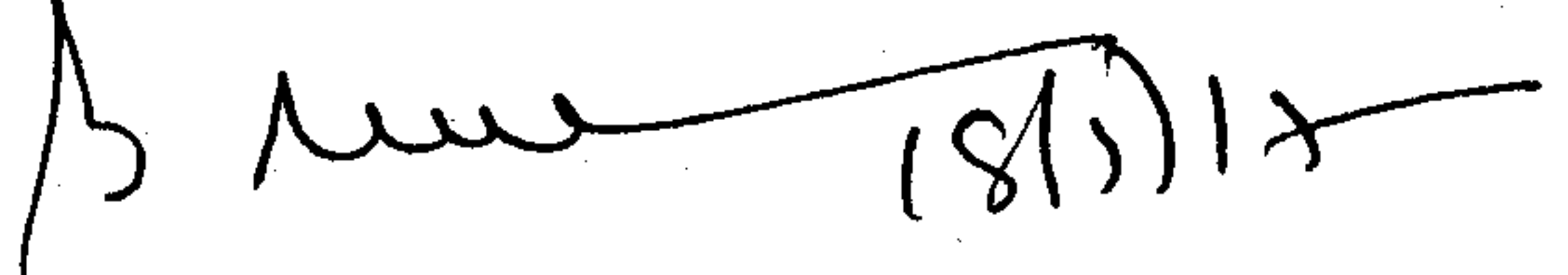






appears that the requirements of the provisions of sections 230-232 of the Companies Act, 2013 are satisfied. The Scheme is genuine and *bona fide* and in the interest of the shareholders and creditors.

21. In the result, these petitions are allowed. The Scheme, which is at Annexure "G" to the petitions is hereby sanctioned. Prayers made in the respective Company Petitions are hereby granted.
22. Fees of Official Liquidator are quantified at Rs. 15,000/- in CP (CAA) No. 29 of 2017. The said fees would be paid by Cadila Healthcare Limited.
23. 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 alongwith Scheme immediately.
24. These Company Petitions are disposed of accordingly.

  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Pronounced by me in open court  
on this 18<sup>th</sup> day of May, 2017.

gt