

ATTENDANCE-CUM-ORDER SHEET OF HEARING

NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH

**TP No. 32/391(1)/394/GB/2016 (CP No. 10 of 2016)**

Anubhav Interiors Pvt. Ltd, and Kapilansh Vyapaar Pvt.Ltd.... Petitioners.

**Present :**

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

**Date of hearing : 10.02.2017**

Name of the Company	
Under Section	391(1) 394

Sl. No.	Name & Designation of Authorized Representative.(in Capital Letters).	Appearing on behalf of	Signature with date
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**ORDER**

Heard Mr. R. K. Agarwala, Smti Dipamoni Kalita and Mr. A. Choudhury, learned counsel appearing for the petitioners.

1. The present petition has been transferred by the Hon'ble Gauhati High Court under section 434 of the Companies Act, 2013 read with Companies (Transfer of Pending Proceedings) Rules, 2016.
2. 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.
3. Also seen the order passed by the Hon'ble Gauhati High Court on 18/04/2016 in Company Application No. 03/2016. 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) and 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."

The Hon'ble Gauhati High Court again on 27/05/2016 had passed the following order in Company Petition No. 10/2016. For ready reference the order is reproduced below:

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


The notice shall be published in the "Assam Tribune" and "Dainik Asom" in terms of fixing 11/08/2016 for hearing. Notice shall be published in terms of the Company Court Rules.

Issue also notice upon 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 within a period of not less than 28 days from the date of hearing."

4. 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. 03/2016 and also vide order dated 27/05/2016 in Company Petition No. 10/2016 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.

5. The counsel appearing for the petitioners submits that all the directions given by the Hon'ble Gauhati High Court vide its order dated 27/05/2016 has been faithfully complied with and an affidavit as regards the aforesaid compliance has been filed on 21/06/2016 before the Hon'ble Gauhati High Court. On perusal of the said affidavit dated 21/06/2016 filed before the Hon'ble Gauhati High Court, it appears that notice of hearing has been published on 06/06/2016 in "Assam Tribune" & on 04/06/2016 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 21/06/2016.





6. The Regional Director, North Eastern Region, Ministry of Corporate Affairs, Shillong has filed an affidavit and has stated/ observed, amongst others, as follows-

- (i) That on examination of the petition in detail and report of Registrar of Companies, North Eastern Region, it appears that no complain and/or representation has been received against the proposed Scheme of Arrangement.
- (ii) That the transferee company is registered with RBI. The RBI vide letter dated (Annexure B of affidavit) 03/08/2016 has informed the Managing Director of the transferee company that no objection certificate from RBI is not required, since, amalgamation does not entail change of control/change in management of transferee company.
- (iii) That they have duly addressed the Income Tax Authority to ascertain their views/objection vide letter No.- RD(NER)9/ 391-394/2016/152 dated 21/06/2016, but till date no reply has been received from their side.

7. From the perusal of the said affidavit, it is evident that they have no objection to the sanction of the Scheme and have left the matter to the discretion of this Hon'ble Tribunal.


8. No other observation or objection has been made by any person in pursuance of advertisements for sanction of Scheme.

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 directed to file a Report within a month that affairs of the Transferor Company, namely, Anubhav Interiors Pvt. Ltd. have not been conducted in a manner prejudicial to the interest of its members or public interest, and thereafter, the Transferor Company, namely, Anubhav Interiors Pvt. Ltd. shall be dissolved without the process of winding up. A copy of this order shall be furnished to the Official Liquidator to do the needful by the petitioners.

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.

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.

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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