

56
**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**TP No. 46/NCLT/AHM/2017 (New)
High Court of Gujarat CP No. 489/2016 c.w. CA 461/2016 (Old)**

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 28.08.2017**

Name of the Company: Micro Chemtech Pvt Ltd.

Section of the Companies Act: Sections 391-394 of the Companies Act, 1956;
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.

2.

ORDER

None present for petitioner.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 28th day of August, 2017.

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

TP No. 46/NCLT/AHM/2017

In the matter of :-

Micro Chemtech Private Limited,
A company having its registered
Office at Plot No.2901 to 2906,
GIDC, Panoli – 394116,
Ankleshwar, Bharuch,
In the state of Gujarat.

... Petitioner Transferor Company

Order delivered on 28th August, 2017

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

Appearance:

Mr. Pratik Thakkar, Advocate, for the petitioner company.

ORDER

1. The present petition is filed by Micro Chemtech Private Limited seeking sanction of a scheme of amalgamation of Chemtech Private Limited (Transferor Company) with Gujarat Agrochem Private Limited ("Scheme" for short).
2. The proposed Scheme of Amalgamation provides that entire business and undertaking of the Petitioner (Transferor Company) shall be transferred to and vested in Gujarat Agrochem Private Limited (Transferee Company), in accordance with and in the manner provided in the Scheme.



3. The Issued, Subscribed and Paid-up Capital of the Petitioner Transferor Company was Rs.5,49,59,500/-. Both the Transferor Company and the Transferee Company are not listed in any Stock Exchanges.

4. The Board of Directors of the Petitioner Company, at its Meeting held on 01.10.2016, approved the proposed amalgamation of the Petitioner Company with the Transferee Company in terms of the Scheme.

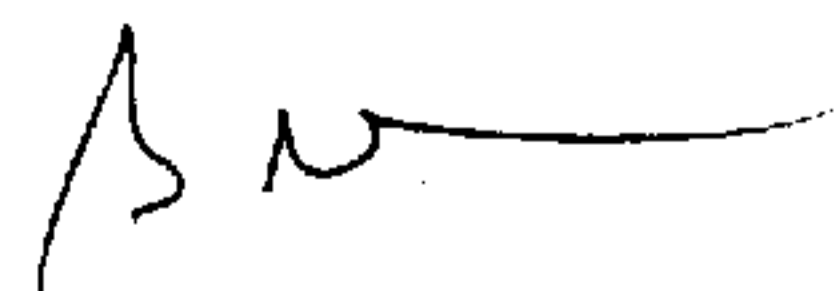
5. The petitioner herein moved an application before the Honourable High Court of Gujarat, being Company Application No.446 of 2016, seeking dispensation of meeting of equity shareholders of the petitioner company for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme. The Hon'ble High Court of Gujarat, by its Order dated 19.10.2016, dispensed with the meeting of equity shareholders. It was noted by the Honourable High Court that there were no secured or unsecured creditors of the petitioner company.

6. Gujarat Agrochem Private Limited, the Transferee Company, filed an application, being Company Application No.462 of 2016, before Hon'ble High Court of Gujarat seeking to hold that the transferee Company being the Parent Holding



Company of the transferor company, i.e. Micro Chemtech Private Limited, the wholly owned subsidiary of the transferee company, separate proceedings, as required to be taken under the provisions of Sec. 391(2) of the Companies Act, 1956 are not required to be undertaken by the Transferee Company. By an order dated 19.10.2016 passed in Company Application No.462 of 2016, The Hon'ble High Court of Gujarat ordered that no separate proceedings are required to be undertaken under Sec.391(2) of the Companies Act,1956 being the Holding Company.

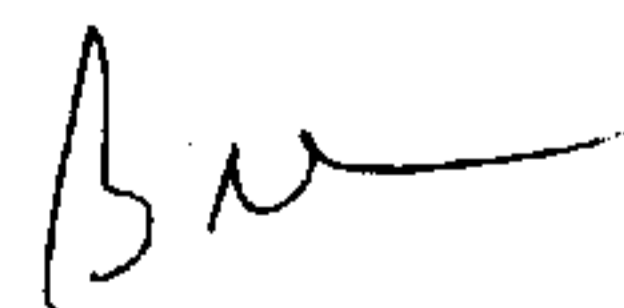
7. Thereafter, Petitioner Company filed Company Petition No.489 of 2016 before the Hon'ble High Court of Gujarat, seeking sanction of the Scheme of Amalgamation of Micro Chemtech Private Limited with Gujarat Agrochem Private Limited. The Hon'ble High Court of Gujarat admitted the petition and posted the matter for final hearing on 26.12.2016 and thereby ordered publication of notice in Gujarati Daily Newspaper, "Gujarat Mitra" and English Daily Newspaper, "Indian Express", having circulation in Surat, and further ordered notice to the Official Liquidator and Central Government through Regional Director, North Western Region, Ahmedabad. The Hon'ble High Court of Gujarat, thereafter, by its order dated 10.02.2017 transferred Company Petition No.489 of 2016 to this Tribunal in view of Rule 3 of The Companies (Transfer of Pending Proceedings) Rules,



2016. This Tribunal renumbered the C.P.489 of 2016 as "TP No.46 of 2017".

8. This Tribunal, by its order dated 21.04.2017, directed the Petitioner Company to publish a notice in the newspapers informing the date of hearing at least 10 days before the date of hearing. This Tribunal also directed the Petitioner Company to serve notice on the Central Government through Regional Director, Registrar of Companies, concerned Income Tax Authorities and Official Liquidator. This Tribunal also directed the petitioner to Issue individual notices to equity shareholders, secured and unsecured creditors, if any, informing the date of hearing.

9. Pursuant to the said order dated 21.04.2017, passed by this Tribunal, the Petitioner Company published notice in Gujarati Daily Newspaper, "Gujarat Mitra" and English Daily Newspaper, "Indian Express", having circulation in Surat on 11.05.2017, as directed by the Tribunal. Notice of hearing was also served upon the Regional Director as well as Official Liquidator on 22.05.2017. In order to confirm the compliance of the said directions, proof of service of notice on Statutory Authorities, Equity Shareholders and proof of publication came to be filed by the Petitioner Company.



10. In response to the notice issued, the Regional Director has filed his representations dated 28.06.2017 and 22.07.2017. Paragraph 2(a), 2(b) and 2(c) of the representation dated 22.07.2017, deals with the factual aspects of the Scheme such as Jurisdiction, Rationale of the Scheme and Transfer of Assets and Liabilities. Paragraph 2(d) representation dated 22.07.2017 states that the capital clause of the Transferee Company shall be amended through this scheme under the accepted principle of Single Window Clearance as per Clause 12 of the Scheme. Vide para 2(e) it is confirmed that the Registrar of Companies has submitted its report to the Regional Director and further confirmed that there are no complaints against the Petitioner Company and there is no complaint/representation against the proposed scheme of amalgamation. Vide para 2(f) of the said representation, it is confirmed that the Regional Director has no other observation/submissions for the Scheme and that the Scheme is not prejudicial to the interest of shareholders of the Petitioner Company and the public at large.

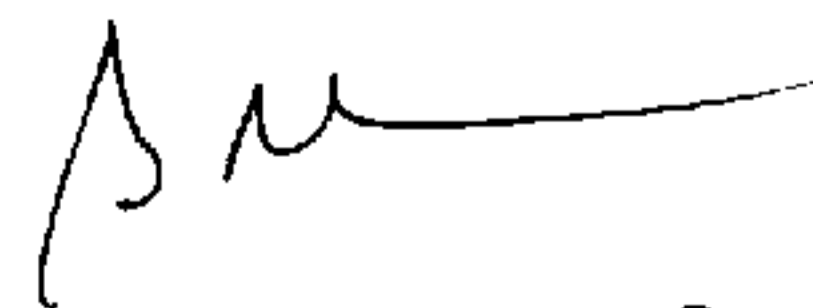
11. In response to the notice of the petition served upon the Office of the Official Liquidator, for the Petitioner Company, representation dated 17.07.2017 has been filed by the Official Liquidator. After referring to the proposals of the Scheme, it has been observed by the Official Liquidator that the affairs of the Petitioner Company have not been conducted in any manner prejudicial to the interest of its members or public interest and,



hence, the petitioner transferor company may be dissolved without following the process of winding up. However, the Official Liquidator has sought directions to be issued to preserve the books of accounts, papers and records of the Transferor Company and not to dispose of the same without prior permission of the Central Govt., as per the provisions of Section 239 of the Companies Act, 2013. Along with the representation of the Official Liquidator, a certificate issued by the Statutory Auditors of the petitioner transferor company is enclosed, which confirms that the accounting treatment contained in the Scheme is in compliance with all the applicable Accounting Standards specified under Section 133 of the Companies Act, 2013 read with Rule 7 of the Companies (Accounts) Rules, 2014.

12. Since no adverse observations have been made by the Regional Director in its representation dated 22.07.2017, and/or by the Official Liquidator in its representation dated 17.07.2017; the petitioner company has not filed any response to the said representations.

13. 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 391 to 394 of the Companies Act, 1956 and Sections 230-232 of the Companies Act, 2013 have been duly complied with. The Scheme



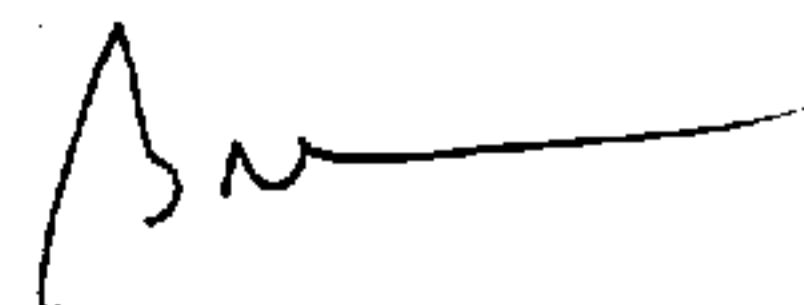
is genuine and *bona fide* and in the interest of the shareholders and creditors.

14. In the result, this petition is allowed. The Scheme, which is at Annexure "D" to the Petition, is hereby sanctioned. It is declared that it shall be binding on the petitioner company, namely, Micro Chemtech Private Limited as well as to the Transferee Company ie. Gujarat Agrochem Private Limited, their equity shareholders, creditors and all concerned and the petitioner Company shall stand dissolved without winding up.

15. The fees of the Official Liquidator are quantified at Rs. 10,000/-. The said fees to the Official Liquidator shall be paid by the Transferee Company.

16. Transferee Company is hereby directed to preserve the books of accounts, papers and records of the Transferor Company and not to dispose of the same without prior permission of the Central Government as required under section 239 of the Companies Act, 2013.

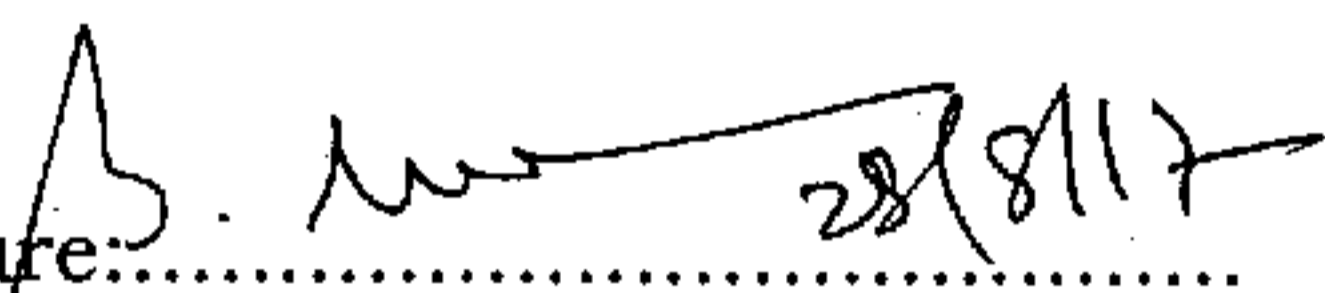
17. It is further directed that even after the Scheme is sanctioned, the Transferor Company shall comply with all the applicable provisions of law and shall not be absolved from any of its statutory liability.



18. 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.

19. Filing and issuance of drawn up order is 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 authenticated copy of this order along with Scheme as well as the Schedule of Assets of the Transferor Company immediately.

20. This company petition is disposed of accordingly.

Signature:  28/8/17
[Bikki Raveendra Babu, Member (J)]

gt