

58
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CP(CAA) No. 86/NCLT/AHM/2017
CA(CAA) No. 55/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 27.10.2017**

Name of the Company: Aviral Chemicals Pvt 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.	MR. NAVIN PAHWA	SR. ADV		
	MS. NATASHA SUTARIA	ADV.		
2.				

ORDER

Learned Senior Advocate Mr. Navin Pahwa with Learned Advocate Ms. Natasha Sutaria present for Petitioner.

Common Order pronounced in open court. Vide separate sheets.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 27th day of October, 2017.

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

CP (CAA) No. 86/NCLT/AHM/2017

With

CP (CAA) No. 87/NCLT/AHM/2017

With

CP (CAA) No. 88/NCLT/AHM/2017

With

CP (CAA) No. 89/NCLT/AHM/2017

With

CP (CAA) No. 90/NCLT/AHM/2017

With

CP (CAA) No. 91/NCLT/AHM/2017

With

CP (CAA) No. 92/NCLT/AHM/2017

In the matter of :-

Aviral Chemicals Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...

Petitioner of CP (CAA) No. 86 of 2017
(Transferor Company)

AND

Jai Shree Crop Science Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.87 of 2017
(Transferor Company)

AND

Redson Crop Care Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at

206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.88 of 2017
(Transferor Company)

AND

Rohini Seeds Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.89 of 2017
(Transferor Company)

AND

Rohini Bioseeds and Agritech Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.90 of 2017
(Transferor Company)

AND

Rohini Agriseeds Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,
Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.91 of 2017
(Transferor Company)

AND

Crystal Crop Protection Private Limited,
A company registered under the
Companies Act, 1956 and having
Its registered office at
206, Second Floor, Span Trade Centre,
Opp. Kochrab Gandhi Ashram,

Near Paldi Char Rasta, Ashram Road,
Ellisbridge, Ahmedabad-380006.

...Petitioner of CP (CAA) No.92 of 2017
(Transferee Company)

Order delivered on 27th October, 2017

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

Appearance:

Mr. Navin Pahwa, Senior Advocate, with Ms. Natasha Sutaria, Advocate, for the Petitioner Companies.

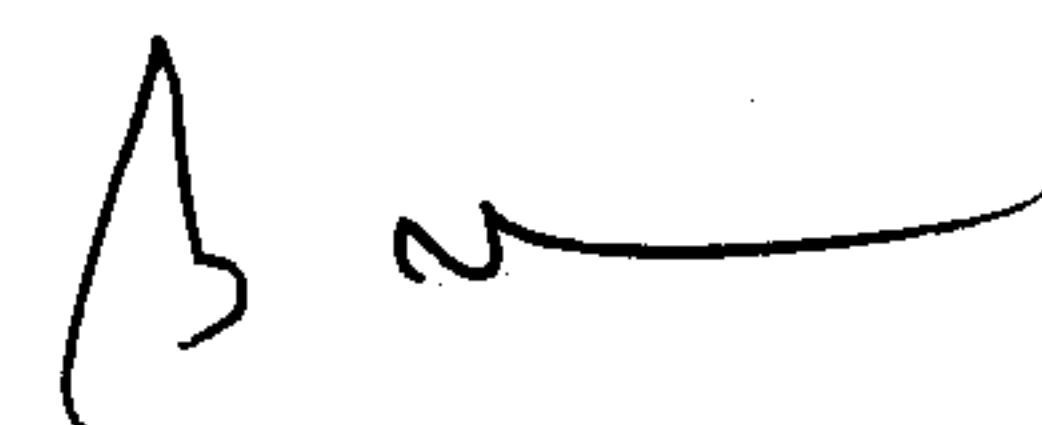
COMMON ORDER

1. These petitions under Sections 230-232 of the Companies Act, 2013 have been filed seeking sanction of a proposed Scheme of Arrangement in the nature of amalgamation of Aviral Chemicals Private Limited, Jai Shree Crop Science Private Limited, Redson Crop Care Private Limited, Rohini Seeds Private Limited, Rohini Bioseeds and Agritech Private Limited and Rohini Agriseeds Private Limited with Crystal Crop Protection Private Limited ("Scheme" for short).

2. The petitioner of CP(CAA) No.86/NCLT/AHM/2017, i.e. Aviral Chemicals Private Limited had filed CA(CAA) No.55/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meeting of Equity Shareholders of the said Company. It was reported that there were no secured or unsecured creditors of the company. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the

meeting of the Equity Shareholders of the petitioner-company. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. In pursuance of the order dated 25.5.2017, the petitioner sent notices to the statutory authorities.

3. The petitioner of CP(CAA) No.87/NCLT/AHM/2017, i.e. Jai Shree Crop Science Private Limited had filed CA(CAA) No.56/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meeting of Equity Shareholders of the said Company. It was reported that there were no secured or unsecured creditors of the company. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meeting of the Equity Shareholders of the petitioner-company. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. In pursuance of the order dated 25.5.2017, the petitioner sent notices to the statutory authorities.



4. The petitioner of CP(CAA) No.88/NCLT/AHM/2017, i.e. Redson Crop Care Private Limited had filed CA(CAA) No.57/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meetings of Equity Shareholders, Preference Shareholders and Unsecured Creditors of the said Company. It was reported that there were no secured creditors of the company. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meetings of the Equity Shareholders, Preference Shareholders and Unsecured Creditors of the petitioner-company. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. Pursuant to the order dated 25.5.2017, the petitioner sent notices to the statutory authorities.

5. The petitioner of CP(CAA) No.89/NCLT/AHM/2017, i.e. Rohini Seeds Private Limited had filed CA(CAA) No.58/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meetings of Equity Shareholders and Secured Creditors of the said Company in view of the consent affidavits filed by all the equity shareholders and secured creditors and for directions to convene and hold meeting of Unsecured Creditors. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meetings of the Equity Shareholders and



Secured Creditors of the petitioner-company. This Tribunal also issued directions to convene and hold the meeting of unsecured creditors. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. Pursuant to the order dated 25.5.2017, the petitioner sent notices to the statutory authorities. As per the directions contained in the order dated 25.5.2017, the meeting of the Unsecured Creditors of Rohini Seeds Private Limited was held on 13th July, 2017 at 11:00 am. The Chairman's Report confirms that the unsecured creditors have unanimously approved the Scheme. As there was some delay in filing the Chairman's Report, the petitioner filed I.A. No.231 of 2017 to condone the delay in filing the Chairman's Report, which came to be allowed vide order dated 17.8.2017 by this Tribunal.

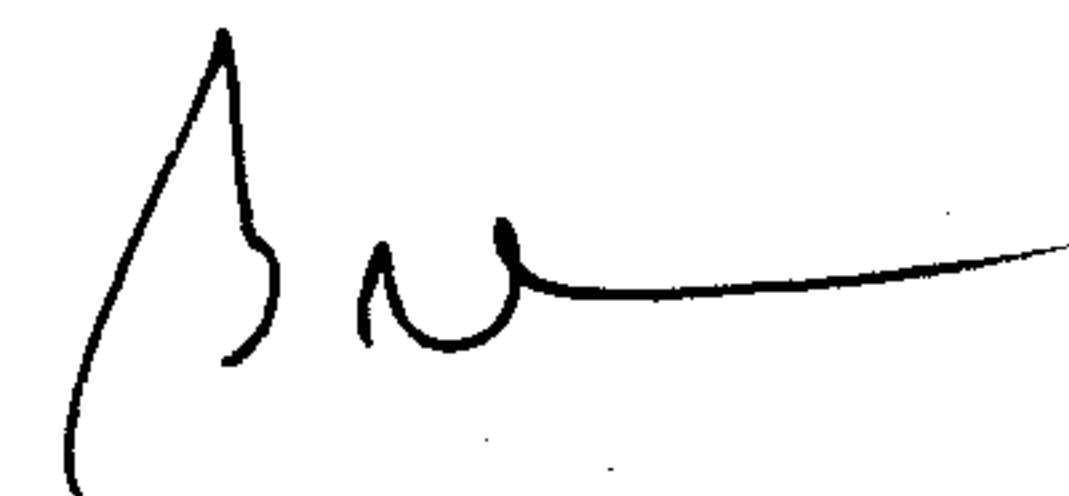
6. The petitioner of CP(CAA) No.90/NCLT/AHM/2017, i.e. Rohini Bioseeds and Agritech Private Limited had filed CA(CAA) No.59/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meetings of Equity Shareholders and Unsecured Creditors of the said Company. It was reported that there were no secured creditors of the company. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meeting of the Equity Shareholders and unsecured creditors

of the petitioner-company. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. In pursuance of the order dated 25.5.2017, the petitioner sent notices to the statutory authorities.

7. The petitioner of CP(CAA) No.91/NCLT/AHM/2017, i.e. Rohini Agriseeds Private Limited had filed CA(CAA) No.60/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meeting of Equity Shareholders of the said Company. It was reported that there were no secured or unsecured creditors of the company. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meeting of the Equity Shareholders of the petitioner-company. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies, Income Tax Authority and Official Liquidator stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. In pursuance of the order dated 25.5.2017, the petitioner sent notices to the statutory authorities.

8. The petitioner of CP(CAA) No.92/NCLT/AHM/2017, i.e. Crystal Crop Protection Private Limited had filed CA(CAA)

No.60/NCLT/AHM/2017 before this Tribunal, seeking directions for dispensation of meetings of Equity Shareholders and Secured Creditors of the said Company in view of the consent affidavits filed by all the equity shareholders and secured creditors and seeking directions to convene and hold meeting of Unsecured Creditors. This Tribunal vide order dated 25.5.2017, issued directions for dispensing with the meetings of the Equity Shareholders and Secured Creditors of the petitioner-company. This Tribunal also issued directions to convene and hold the meeting of Unsecured Creditors. This Tribunal also directed issuance of notices to Regional Director, Registrar of Companies and Income Tax Authority stating that the representation, if any, to be made by them, be made within a period of 30 days from the date of receipt of such notice. Pursuant to the order dated 25.5.2017, the petitioner sent notices to the statutory authorities. As per the directions contained in the order dated 25.5.2017, the meeting of the Unsecured Creditors of Crystal Crop Protection Private Limited was held on 13th July, 2017 at 12:00 noon. The Chairman's Report confirms that the unsecured creditors have unanimously approved the Scheme. As there was some delay in filing the Chairman's Report, the petitioner filed I.A. No.232 of 2017 to condone the delay in filing the Chairman's Report, which came to be allowed vide order dated 17.8.2017 by this Tribunal.

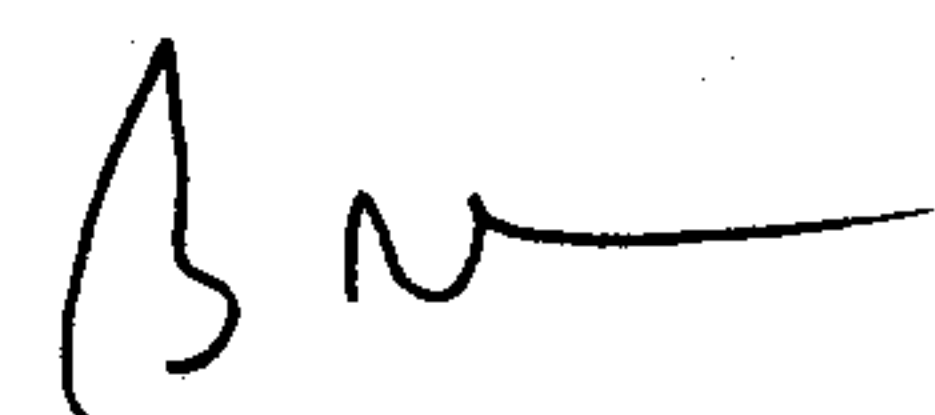


9. Pursuant to the order dated 25.5.2017 passed in CA (CAA) Nos. 55 to 61/NCLT/AHM/2017, the Regional Director has submitted a common representation dated 29.6.2017 and the Official Liquidator has filed a representation dated 28.7.2017. In response to the representation of the Regional Director, the petitioner companies filed an affidavit-in-reply dated 21st July, 2017.

10. The petitioners, thereafter, filed the present petitions seeking sanction of the Scheme.

11. Pursuant to the order dated 25.5.2017 passed in CA (CAA) Nos. 55 to 61/NCLT/AHM/2017, the Income Tax Department at Delhi addressed a letter dated 13.6.2017 to Redson Crop Care Private Limited, one of the Transferor Companies, stating that the notice received by it is returned as the concerned Income Tax Authority did not have jurisdiction over the registered office of the Company at Ahmedabad. This Tribunal, therefore, by its order dated 18.8.2017 directed the petitioners to issue statutory notice to Income Tax Office, Ahmedabad asking them to file representation, if any, within 30 days from the date of receipt of notice.

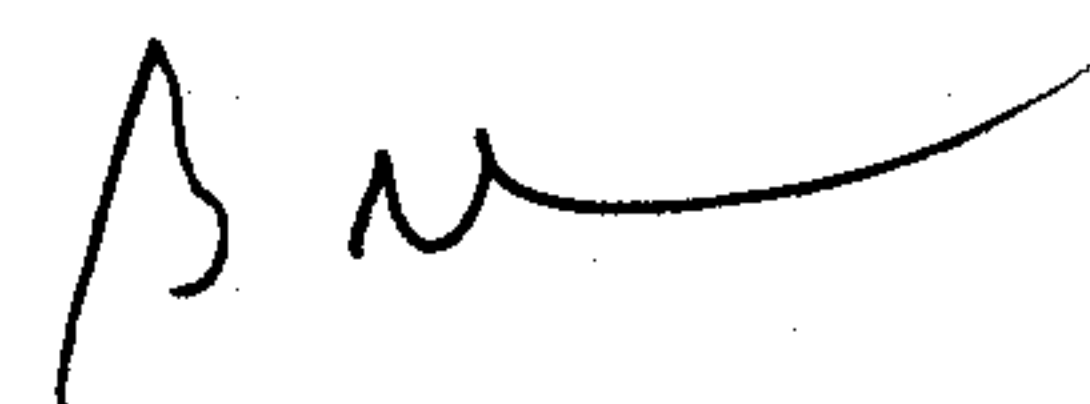
12. The petitioners, thereafter, filed I.A. Nos.263 of 2017 to 269 of 2017 seeking recall of the order dated 18.8.2017 made by this Tribunal whereby this Tribunal directed the petitioners to issue notice to Income Tax Office, Ahmedabad. The said



interlocutory applications came to be disposed of by order dated 8.9.2017 and the main petitions were listed on 22.9.2017.

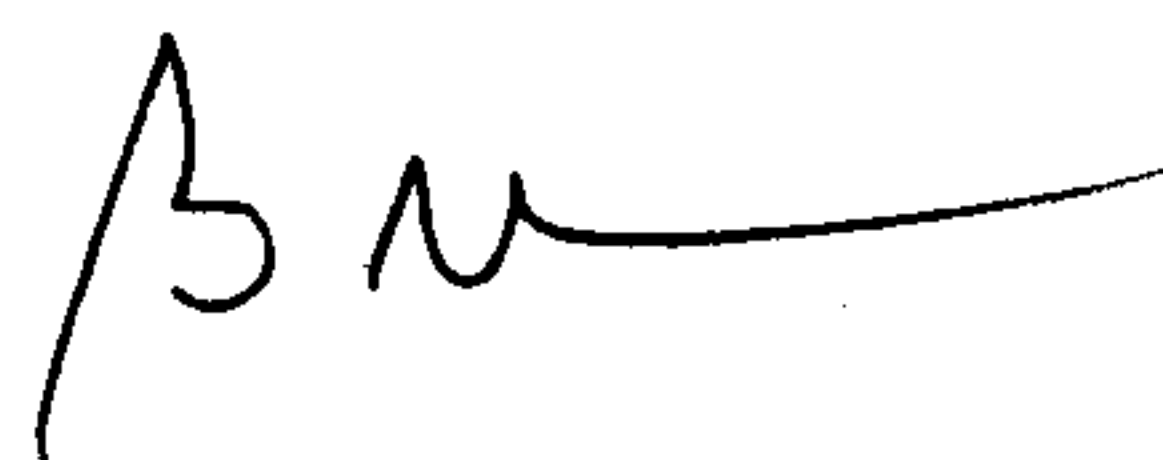
13. This Tribunal, by its separate orders, dated 22.9.2017 admitted the aforesaid petitions and directed issuance of notices to Regional Director, Registrar of Companies and Official Liquidator (in case of Transferor Companies) informing the date of hearing. In CP(CAA) No.88 of 2017, this Tribunal also directed issuance of notice to Income Tax Office Authority informing it about the date of hearing. The Tribunal further directed publication of notice of hearing of the petitions in the English Daily Newspaper "Indian Express" and Gujarati Daily Newspaper "Sandesh", Ahmedabad Editions not less than 10 days before the date fixed for hearing, calling for objections, if any, on or before the date of hearing. The petitions were ordered to be listed on 12.10.2017 for hearing.

14. Pursuant to the orders dated 22.9.2017 passed by the Tribunal, the petitioner- companies published the notice of hearing of the petitions in the English Daily Newspaper "Indian Express" and Gujarati Daily Newspaper "Sandesh", Ahmedabad Edition on 28.9.2017. The notices in respect of hearing of the Company Petitions were served upon the statutory authorities. Affidavits to that effect are also filed on behalf of the petitioner-companies. No representations are received.



15. Heard Shri Navin Pahwa, Learned Senior Advocate with Ms. Natasha Sutaria, Advocate for M/s. Thakkar & Pahwa, Advocates, for the petitioner-companies.

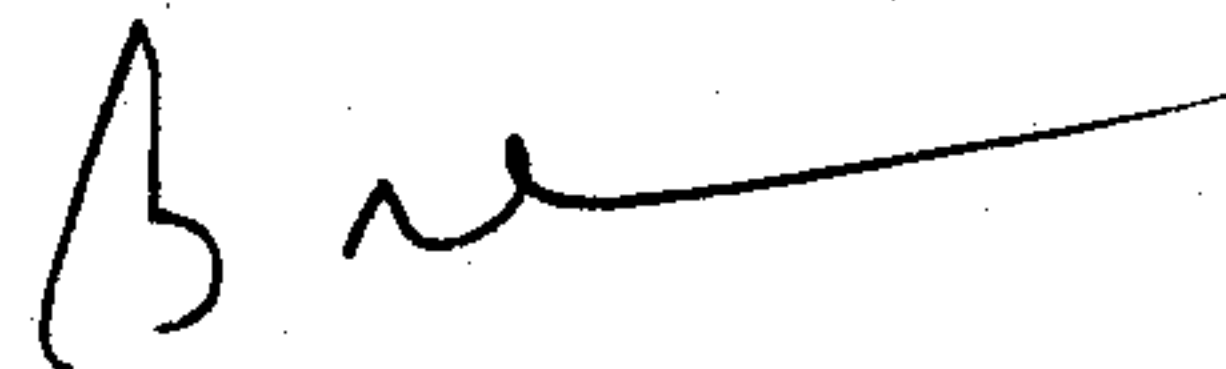
16. In response to the observation of Regional Director in paragraph 2(e) that the petitioner transferee company has shown a claim of Rs.16,29,70,220/-, which was rejected by the Insurance Company in the year ended on 31.03.2014, as receivable in the Balance Sheet as on 31.03.2016, it is stated in the reply filed by the petitioners that the Company is entitled to the insurance claim and the complaint made by the Petitioner Transferee Company is being examined and considered by the National Consumer Disputes Redressal Commission, New Delhi. It is further stated that the matter is subjudice and the petitioner company has strong prima facie case in its favour and the company is likely to succeed in the said proceedings. The claim of the petitioner is, therefore shown, as receivable in the books and the same is as per the applicable accounting principles. The petitioner has also annexed certificate of Kumar Vijay Gupta & Co., Chartered Accountants, dated 15.7.2017 certifying that the claim shown by the petitioner, as receivable, is consistent with Generally Accepted Accounting Principles. In light of the above, this Tribunal is of the view that the observation made by the Regional Director stands satisfied.



17. In compliance with the proviso to sub-section (7) of Section 230, the petitioner companies have placed on record copies of the certificates of Auditors of petitioners companies confirming that the accounting treatment envisaged under the Scheme is in compliance with the applicable Accounting Standards prescribed under Section 133 of the Companies Act, 2013 as the original certificates were filed along with the Company Applications.

18. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents produced on record, it appears that the requirements of the provisions of Sections 230 and 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.

19. In the result, these petitions are allowed. The Scheme of Arrangement, as placed at Annexure-E to the petitions, is hereby sanctioned and it is declared that the same shall be binding on the petitioner- companies namely, Aviral Chemicals Private Limited, Jai Shree Crop Science Private Limited, Redson Crop Care Private Limited, Rohini Seeds Private Limited, Rohini Bioseeds and Agritech Private Limited and Rohini Agriseeds Private Limited and Crystal Crop Protection Private Limited, their shareholders, creditors and all concerned under the Scheme. The petitioner transferor companies shall stand dissolved without the process of winding up.



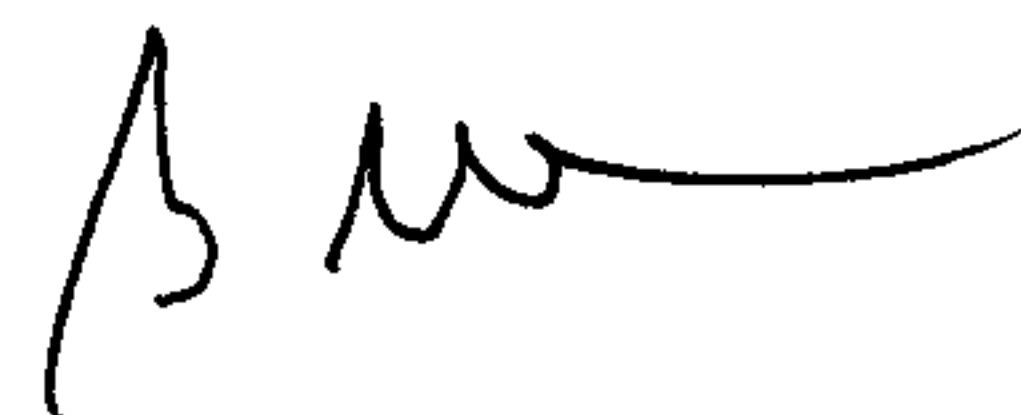
20. It is ordered that the Transferor Companies shall not dispose of or destroy their books of accounts and other connected papers without prior consent of the Central Government as per provisions of Section 239 of the Companies Act, 2013 and shall preserve the same.

21. It is also ordered that the Transferor Companies shall ensure statutory compliance of all applicable laws and they shall not be absolved from their statutory liabilities in any manner.

22. It is further ordered that the petitioner companies shall comply with Rule 17(3) 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 involved.

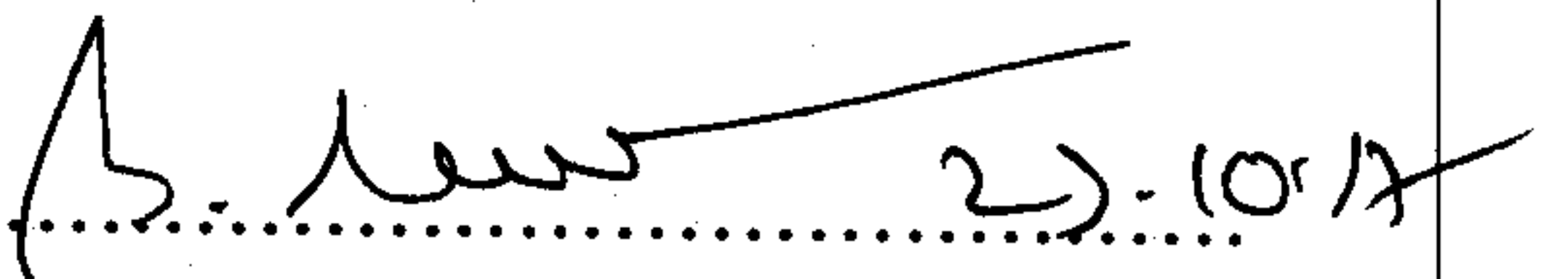
23. The fees of the Official Liquidator are quantified at Rs.10,000/- each in respect of the Transferor Companies and the said fees shall be paid by the Transferee Company.

24. 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 certified copy of this order along with the Scheme immediately.

25. These Company Petitions are disposed of accordingly.

Signature 
[Bikki Raveendra Babu, Member (J)]

gt