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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**CP(CAA) No. 101/NCLT/AHM/2017
In CA (CAA) No.67/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 10.11.2017**

Name of the Company:

Babita Synthetics Pvt. Ltd.
Kusum Synthetics Pvt. Ltd.
Sushma Synthetics Pvt. Ltd.
Geeta Fibres Pvt. Ltd.
Tulip Industries Pvt. Ltd.
Kansal Tex-Feb Pvt. Ltd.
Kansal Poly-Feb Pvt. Ltd.
Anita Synthetics Pvt. Ltd.
Ayush Aexlene Ltd. (Joint Application)

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>
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1.

ORDER

2.

None present for Petitioners.

Order pronounced in open court. Vide separate sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 10th day of November, 2017.

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

CP(CAA) No.101/NCLT/AHM/2017

In the matter of :-

Babita Stynthetics Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.1)

And

Kusum Synthetics Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.2)

And

Sushma Synthetics Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.3)

And

Geeta Fibres Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.4)

And

Tulip Industries Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.5)

And

Kansal Tex-Fab Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.6)

And

Kansal Poly-Fab Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.7)

And

Anita Synthetics Private Limited,
602, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferor Company No.8)

And

Ayush Texlene Limited,
603, Trividh Chambers,
Opp. Fire Brigade, King Road,
Surat (Gujarat) – 395002.

... Petitioner
(Transferee Company)

Order delivered on 10th November, 2017

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

Appearance:

Mr. Pavan S. Godiawala Advocate, for the petitioner companies.

ORDER

1. By this joint petition under Sections 230-232 of the Companies Act, 2013, the petitioner companies are seeking sanction of a scheme of arrangement in the nature of amalgamation of Babita Synthetics Private Limited and Kusum Synthetics Private Limited and Sushma Synthetics Private Limited and Geeta Fibres Private Limited and Tulip Industries Private Limited and Kansal Tex-Fab Private Limited and Kansal Poly-Fab Private Limited and Anita Synthetics Private Limited with Ayush Texlene Limited ("Scheme" for short).



2. The petitioner companies had filed one joint application, being CA(CAA) No.67 of 2017, before this Tribunal seeking dispensation of meetings of the respective classes of equity shareholders and creditors of the petitioner companies for the purpose of considering and approving, with or without modification(s) the Scheme. Taking into consideration the individual consents in the form of affidavit approving the Scheme, certificates of Chartered Accountant and averments made in the application, this Tribunal vide order dated 6th June, 2017, dispensed with the meetings of equity shareholders and creditors of the petitioner companies, as prayed for. This Tribunal also directed the petitioner companies to issue notices to the Central Government through Regional Director, North Western Region, the Registrar of Companies, Gujarat, the Income Tax Authorities and the Official Liquidator (only in the case of transferor companies).

3. Pursuant to the directions of this Tribunal in CA(CAA) No.67 of 2017, the Petitioners duly complied with the order and served notices in prescribed forms to the respective authorities and filed proof of service on 18.09.2017.

4. Upon receipt of the notices, the Regional Director, North Western Region, filed representation dated 28.07.2017 and the Official Liquidator filed individual representations dated



31.07.2017 in the case of the Transferor Companies. In response to the notice served upon the Income Tax Authorities, the Principal Commissioner of Income-tax, Surat-2 filed a report on 16th August, 2017.

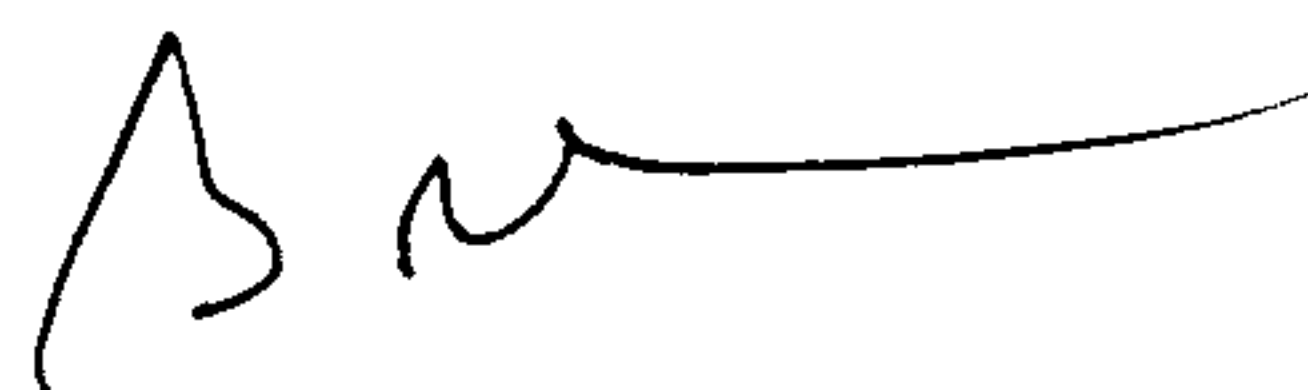
5. Thereafter, the Petitioners filed the present joint petition seeking sanctioning of the Scheme on 23rd August, 2017. This Tribunal vide order dated 5th September, 2017 admitted the petition and directed the petitioner companies for publication of the notice of hearing of the petition in "Indian Express", English Daily, "Dhabkar" Gujarati Daily, both Surat Edition. This Tribunal also directed the petitioner companies to issue notice to Regional Director, Registrar of Companies, Income Tax Authorities Official Liquidator (only in the case of the Transferor Companies). Pursuant to the order, the Petitioners duly complied with the orders and published the notice of petitions in both the newspapers on 08.09.2017 and affidavit of service and proof of service of publication were filed on 18.09.2017.

6. Heard learned Advocate, Mr. Pavan Godiawala, for the petitioner companies.

7. Mr. Godiawala has submitted that in the representation, the Regional Director has not made any observations against the Scheme and it is also stated in the representation of the Regional

Director that the Scheme is not prejudicial to the interest of shareholders of the Petitioner Companies and the Public at large.

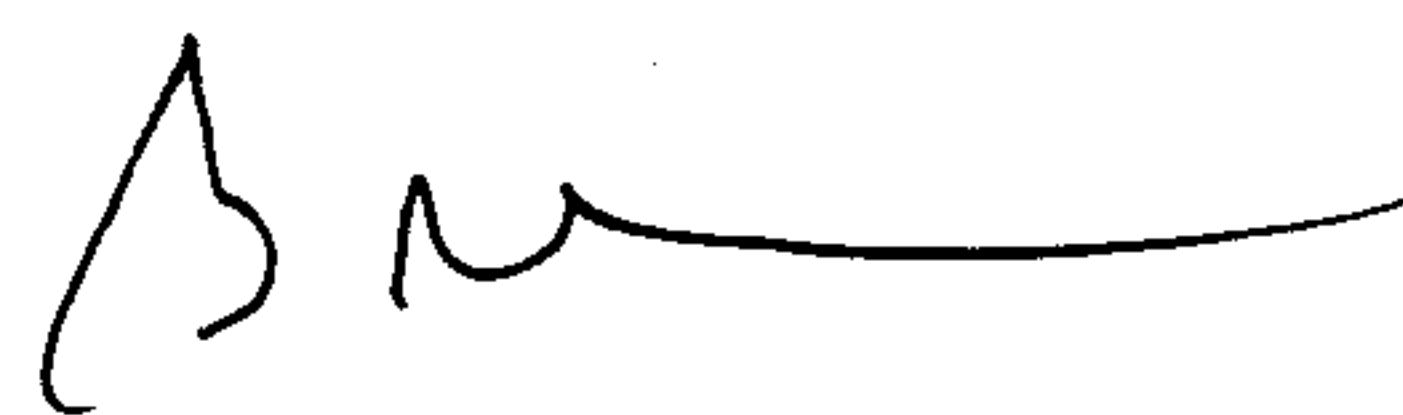
8. Mr. Godiawala has also submitted that in the representation of the Official Liquidator, it is observed in paragraph 11 that, the transferor company has submitted a certificate from the auditor of the company dated 25.4.2017 mentioning therein that the accounting treatment proposed in the scheme of arrangement is in conformity with accounting standards prescribed under section 133 of the Companies Act, 2013. Further, it is observed by the Official Liquidator in paragraph 14 that the petitioner transferor companies may be directed to preserve books of accounts, papers and records and shall not be disposed of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013. In paragraph 15 of the representation, the Official Liquidator has observed that this Tribunal may direct the petitioners to ensure statutory compliance of all applicable laws and also on sanctioning of the present Scheme, the petitioners shall not be absolved from any of their statutory liabilities, in any manner. The Official Liquidator has also observed that, companies involved in the Scheme may be directed to 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 No. INC -28 with the



Registrar of Companies having jurisdiction over the transferee and transferor companies respectively.

9. In response to the representation of the Official Liquidator, the Petitioner transferor companies filed affidavit dated 15.9.2017 and have undertaken to preserve the books of accounts, papers and records and shall not dispose them of without prior permission of the Central Government. The petitioner companies also assured statutory compliance of all applicable laws and that they understood that they shall not be absolved from any statutory liabilities in any manner and upon scheme getting sanctioned. The petitioner companies have also stated that they shall file the order of this Tribunal with the Registrar of Companies under the prescribed form under the law.

10. In response to the notice to Income Tax Authorities, the office of the Pr. Commissioner of Income-tax, Surat-2, vide communication dated 08.08.2017 forwarded copies of two reports received from Income Tax Officers, Wards-2(1)(3) and 2(1)(4), Surat. In one of the reports, it is stated that the proposed scheme of amalgamation, prima facie, does not seem to have been designed in such a way as to defraud the revenue and consequently being prejudicial to public interest. In light of the above report, this Tribunal is of the view that the Income Tax Authorities have not raised any objection to the sanctioning of the Scheme.



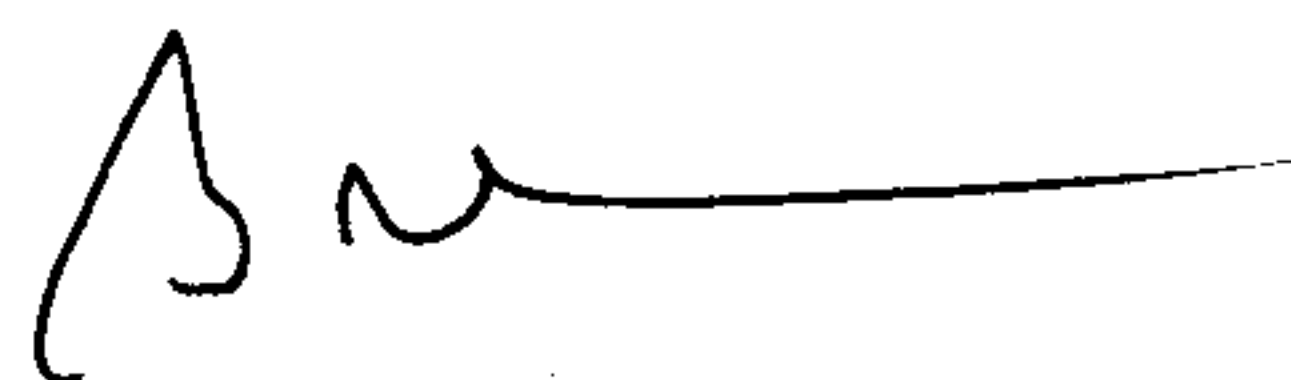
11. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents produced on record, it appears that the requirements of the provisions of Sections 230 to 232 of the Companies Act, 2013 are satisfied and the Scheme appears to be genuine and *bona fide*.

12. In the result, this petition is allowed. The Scheme of Arrangement as placed at Annexure-C to the petition is hereby sanctioned and it is declared that the same shall be binding on the petitioner- companies their shareholders, creditors and all concerned under the Scheme. The petitioner transferor companies shall stand dissolved without following the process of winding up.

13. It is ordered that the petitioner 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.

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

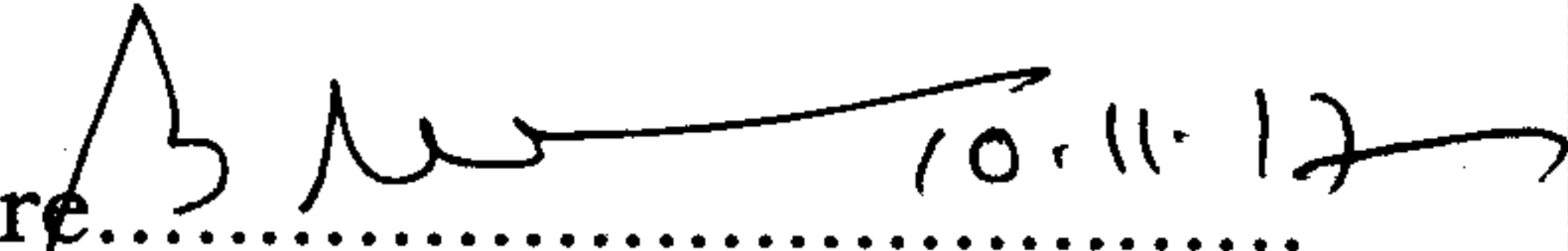
15. It is further ordered that the petitioner companies shall comply with Rule 17(3) of Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 with respect to filing of order, if any, for confirmation of the scheme in form INC-28 with the Registrar of Companies having jurisdiction over the petitioner companies involved.



16. Fees of Official Liquidator, in respect of the transferor companies are quantified at Rs.10,000/- each. The said fees shall be paid by the transferee company, i.e. Ayush Texlene Limited.

17. 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.

18. This Company Petition is disposed of accordingly.

Signature..... 10.11.17
Bikki Raveendra Babu, Member (J)

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