

S-13
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CA(CAA) No. 156/NCLT/AHM/2017

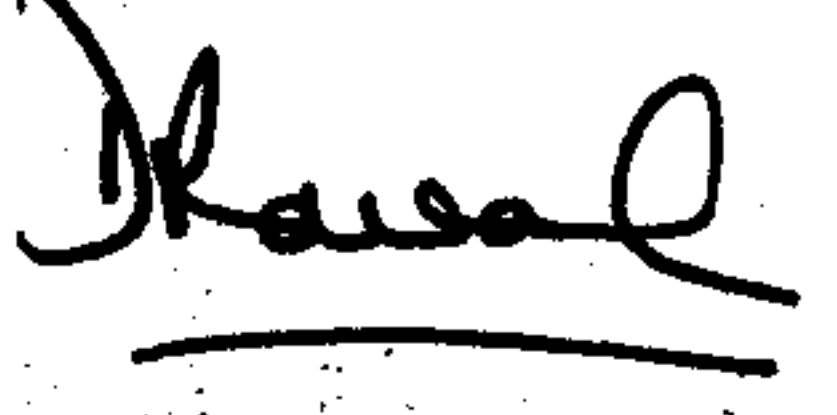
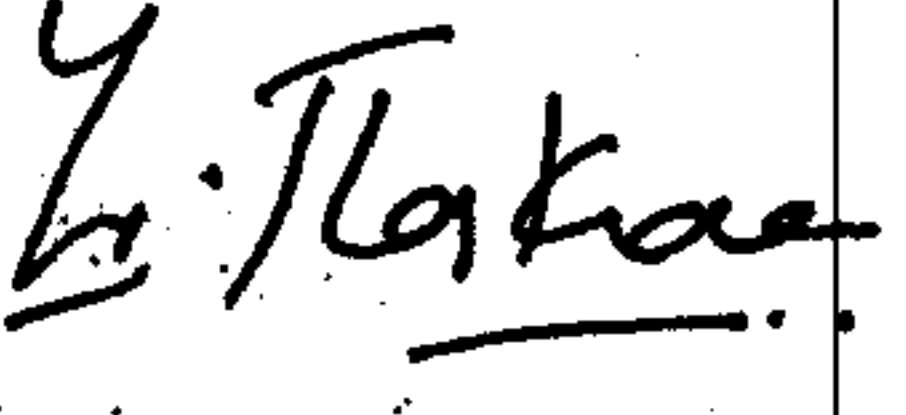
Coram:

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 21.11.2017

Name of the Company: Safal Realty 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.	Dharmishta Raval	Advocate	Applicant	
2.	Yuvraj Thakore	Advocate	Applicant	

ORDER

Learned Advocate Ms. Dharmishta Raval with Learned Advocate Mr. Yuvraj Thakore present for Applicant.

Order pronounced in open Court. Vide separate sheets.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 21st day of November, 2017.

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

CA(CAA) No.156/NCLT/AHM/2017

In the matter of :-

Safal Realty Private Limited
A Company incorporated under
The Provisions of Companies Act, 1956
And having its Registered Office
11th Floor, SafalProfitair,
Opp. Auda Garden,
Corporate Road, Prahladnagar,
Ahmedabad – 380015, Gujarat.

(Applicant Amalgamating Company – 3/
Applicant Amalgamated Company – 1/
Applicant Demerged Company)

Order delivered on 21st November, 2017

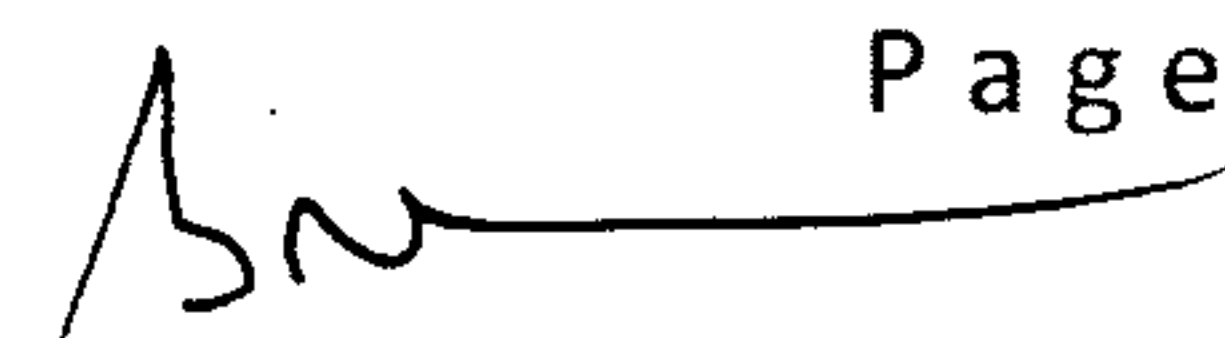
Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

Ms. Dharmishta Raval of M/s Raval and Raval, Advocates for the Applicant Company.

ORDER

1. Heard learned Advocate Ms. Dharmishta Raval for Raval & Raval Advocate.
2. Safal Realty Private Limited (Applicant Amalgamating Company – 3/Applicant Amalgamated Company – 1/ Applicant Demerged Company) has filed this application seeking a directions of this Tribunal for convening and holding meetings of equity shareholders, secured creditors and unsecured creditors of the Applicant Company in respect of a Composite Scheme of Amalgamation, Arrangement and Demerger between



H Nyalchand Realty Private Limited (Amalgamating Company-1) Vastupal Infrastructure Private Limited (Amalgamating Company-2) with Safal Realty Private Limited (Amalgamated Company-1 / Demerge Company / Amalgamating Company-3) and demerger of project division of Safal Realty Private Limited into Safal Infra-Developers Private Limited (Resulting Company) and the amalgamation of Safal Realty Private Limited with HN Safal Facilities Management Private Limited (Amalgamated Company-2) and their respective shareholders and creditors with effect from the Appointed Date on the agreed terms and conditions as set out in the scheme annexed at Annexure-D in accordance with Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Act.

3. The Board of Directors of Applicant Company in the meeting held on 4th October, 2017, passed a resolution approving the proposed Scheme placed before the Board by the Company Secretary. The Applicant Company has filed its audited balance sheet as well as a Certificate dated 9.10.2017 issued by its Chartered Accountant certifying compliance with Section 133 of the Companies Act, 2013.

4. The Applicant Company has stated that there are 22 equity shareholders in the Company. The list of equity shareholders as certified by the Chartered Accountant is

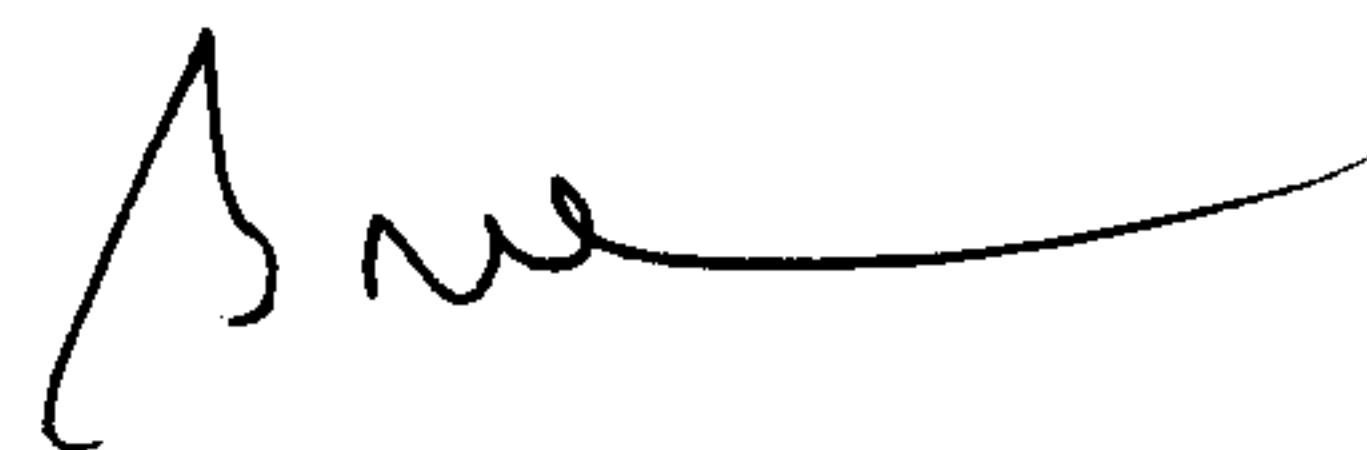
produced at Annexure "F". The Applicant Company has filed original consent affidavits of more than 95% of the equity shareholders vide Annexure "E (Colly)".

5. In view of the fact that the consent of 100% Equity Shareholders is not produced, this Tribunal is of the view that the meeting of Equity Shareholders of the Applicant Amalgamating Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is required to be convened.

6. It is stated that the Applicant Company is having 4 Secured Creditors and the Applicant Company has produced a Certificate of Chartered Accountant certifying the said statement as Annexure "G".

7. In view of the fact that the no consent letters of the Secured Creditors are not produced, this Tribunal is of the view that the meeting of Secured Creditors of the Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is required to be convened.

8. Coming to unsecured creditors, the Applicant Company has 181 unsecured creditors. The Applicant Company has



produced a Certificate of Chartered Accountant certifying the same as Annexure-“H”.

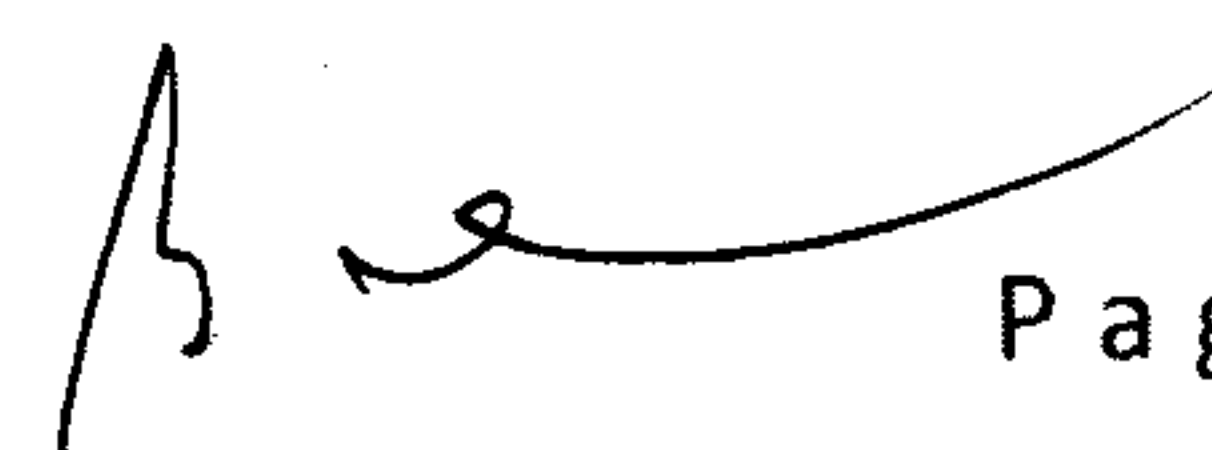
9. In view of the fact that the consent letters of unsecured creditors are not produced, this Tribunal is of the view that the meeting of unsecured creditors of the Applicant Company, for the purpose of considering and, if thought fit, approving the proposed Scheme with or without modification(s) is required to be convened.

10. It is stated in the affidavit that the provisions of the Reserve Bank of India Act are not attracted to the Applicant Company and, therefore, no notice is required to be issued to the Reserve Bank of India. It is also stated in the said affidavit that no notice is required to be issued to the Competition Commission of India in the facts of the present case.

11. In the circumstances, this Tribunal issues the following directions:-

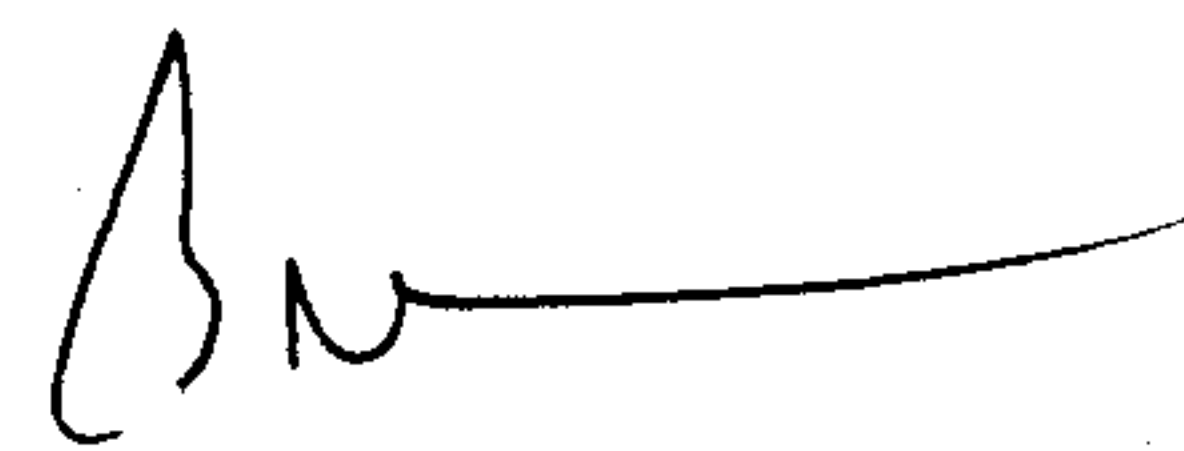
I. A meeting of the Equity Shareholders of the Applicant Company shall be held on 26.12.2017 at 2:00 PM on 11th floor at Safal Profitaire Corporate Road, Opp. Auda Garden, Prahaladnagar, Ahmedabad - 380015, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.

- II. A meeting of the Secured Creditors of the Applicant Company shall be held on 26.12.2017 at 11:00 AM on 11th floor at SafalProfitaire Corporate Road, Opp. Auda Garden, Prahaladnagar, Ahmedabad - 380015, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
- III. A meeting of the Unsecured Creditors of the Applicant Company shall be held on 26.12.2017 at 12:00 Noon on 11th floor at Safal Profitaire Corporate Road, Opp. Auda Garden, Prahaladnagar, Ahmedabad - 380015, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme.
- IV. At least one month before 26.12.2017, i.e. the date of the aforesaid meetings, an advertisement about convening of the said meetings, indicating the day, date, place and time, as aforesaid, shall be published in English daily, Indian Express, Ahmedabad edition and a Gujarati translation thereof in Sandesh, Ahmedabad edition. The publication shall indicate the time within which copies of scheme shall be made available to the concerned persons free of charge from the registered office of the company. The publication

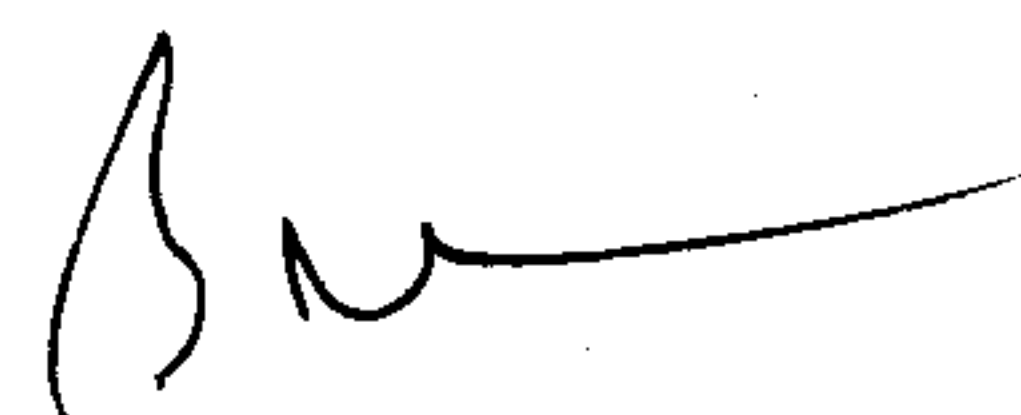


shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Company in accordance with second proviso to sub-section (3) of Section 230 and Rule 7 of the Companies (CAA) Rules, 2016.

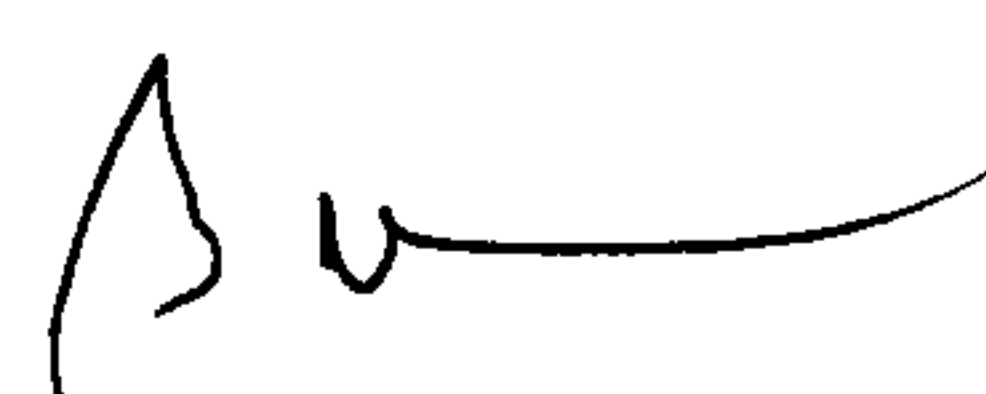
- V. In addition, at least one month before the date of the meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors to be held as aforesaid, a notice convening the said meetings, indicating the day, date, place and time, as aforesaid, together with a copy of the scheme, a copy of statement required to be furnished pursuant to Section 102 of the Act read with Sections 230 to 232 and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed form of proxy shall be sent to each of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Company at their respective registered or last known addresses either by Registered post or Speed Post/Airmail or by Courier. The Notice shall be sent to the Equity shareholders of the Applicant Company with reference to the list of the persons appearing on the record of the Applicant Company as on 27th September, 2017.



- VI. Mr. Ullas Shah a Chartered Accountant and, in his absence Mr. Naishal Shah, Chartered Accountant shall be the Chairman/Chairperson of the aforesaid meetings to be held on 21stDecember, 2017 and in respect of any adjournment thereof.
- VII. Mr. Shambhubhai Jeram Bhikadi, a Practicing Company Secretary and in his absence Miss. Jindagi Shah Practicing Secretary is appointed as the Scrutinizer for the aforesaid meetings of the Applicant company.
- VIII. The Chairman or Chairperson appointed for the aforesaid meeting shall issue the advertisements and send out the notices of the meetings referred to above. The Chairman/Chairperson is free to avail the services of the Applicant Company or any agency for carrying out the aforesaid directions. The Chairman or Chairperson shall have all powers under the Articles of Association of the applicant company and also under the Rules in relation to the conduct of meetings, including for deciding any procedural questions that may arise at the meetings or adjournment(s) to the aforesaid scheme or resolution, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of the sense of the meetings of the Equity shareholders, secured and unsecured creditors by polling paper/ballot.



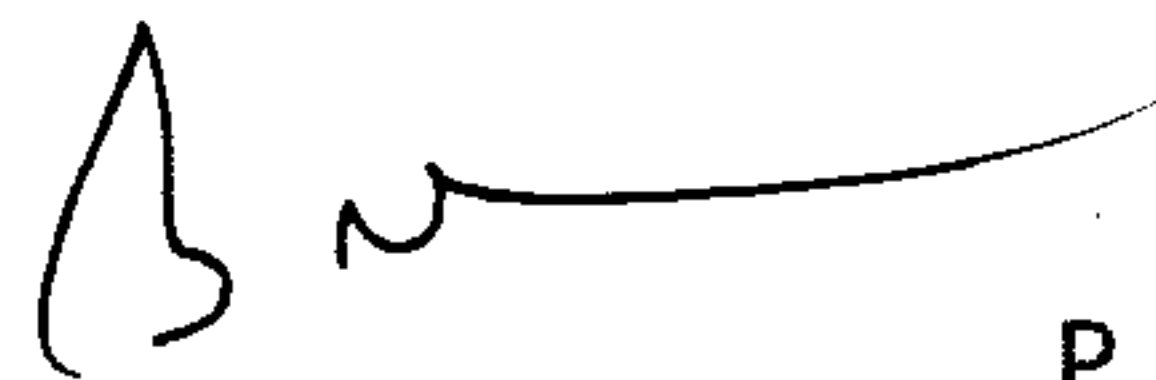
- IX. The quorum for the meeting of the Equity Shareholders shall be 4 (Four)
- X. The quorum for the meeting of the Secured Creditors shall be 2 (Two)
- XI. The quorum for the meeting of the Unsecured Creditors shall be 11 (eleven)
- XII. Voting by proxy/authorized representatives is permitted, provided that the proxy in the prescribed form/authorization duly signed by the person entitled to attend and vote at the aforesaid meetings is filed with the Applicant company at its registered office at 11th floor at Safal Profitaire Corporate Road, Opp. Auda Garden, Prahaladnagar, Ahmedabad – 380015 not later than 48 hours before the meetings vide Rule 10 of Companies (CAA) Rules, 2016 read with Section 105 of the Companies Act.
- XIII. The number and value of the Secured and Unsecured Creditors, as the case may be, shall be in accordance with the records or registers of the Applicant-company and where the entries in the records or registers are disputed, the Chairman of the meetings shall determine the number or value, as the case may be for purposes of the meetings.



XIV. The Chairman/Chairperson to file an affidavit not less than 7(seven) days before the date fixed for the holding of the meetings and to report to this Tribunal that the directions regarding issuance of notices and advertisement of the meetings have been duly complied with as per Rule 12 of the Companies (CAA) Rules, 2016.

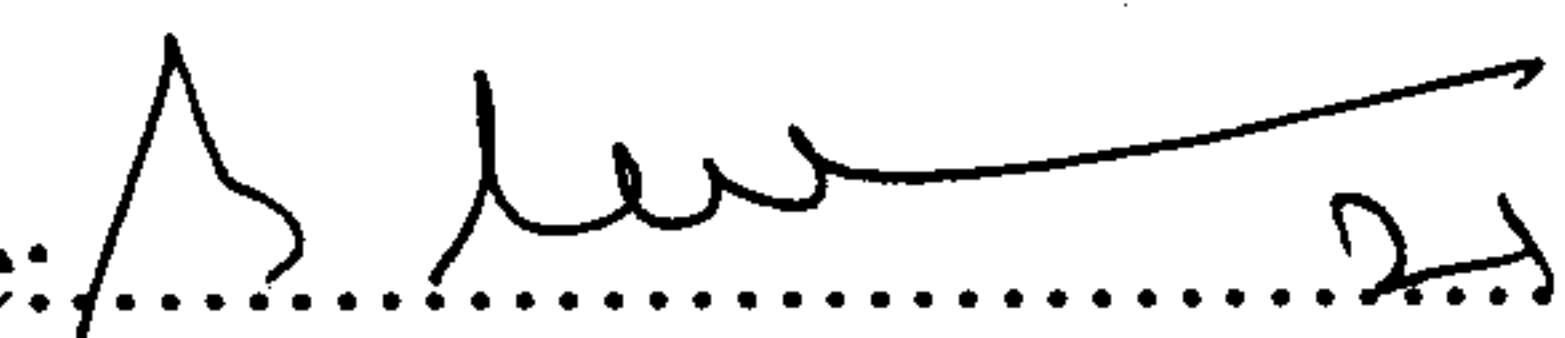
XV. It is further ordered that the Chairman or the Chairperson shall report to this Tribunal on the result of the meetings in Form No.CAA.4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in from No. CAA.4 within seven days.

12. In compliance of Sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Company shall send a Notice under sub-section (3) of Section 230 read with Rule 6 of the Rules in Form No. CAA. 3 along with a copy of the Scheme of Amalgamation, the Explanatory Statement and the disclosures mentioned under Rule 6 to (1) the Central Government through the Regional Director, North Western Region, (2) the Registrar of Companies concerned (3) the Income-Tax Authorities and (4) the Official Liquidator stating that representations, if any, to be made by them shall be made within a period of 30 days from the date of receipt of such notice, failing which it shall be presumed that they have no objection to



make on the proposed Scheme. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230 shall send the same to this Tribunal within a period of 30 (thirty) days from the date of receipt of such notice, failing which it will be deemed that they have no representation to make on the proposed Scheme of Amalgamation.

13. This Company Application is disposed of accordingly.

Signature:  21.11.17
[Bikki Raveendra Babu, Member (J)]

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