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NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CA(CAA) No. 158/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: Peass Industrial Engineers 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	<u>Dharmishta Raval</u>
2.	Yuvraj Thakore	Advocate	Applicant	<u>Y. Thakore</u>

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 21.11.17
BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 21st day of November, 2017.

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

CA(CAA) No.158/NCLT/AHM/2017

In the matter of :-

Peass Industrial Engineers
Private Limited,
A company incorporated under
the provisions of Companies Act, 1956
And having its registered office at
Maneklal, Road opp. Railway Yard,
Navsari, Gujarat - 396 445

.... Applicant Transferee Company

Order delivered on 21st November, 2017

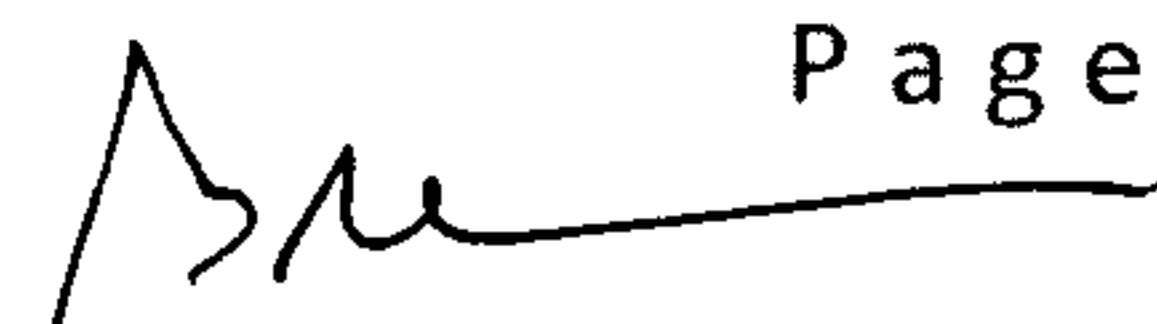
Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

Ms. Dharmishta Raval of M/s Raval and Raval, Advocates with Mr. Yuvraj Thakore, Advocates for the Applicant Company.

ORDER

1. Heard learned Advocate Ms. Dharmishta Raval for Raval & Raval Advocate.
2. Peass Industrial Engineers Private Limited has filed this application seeking dispensation of meetings of Equity Shareholders and Secured Creditors and directions for conducting the meeting of Unsecured Creditors of the Applicant Company in respect of a Scheme of Amalgamation of Sitaman Industries Private Limited ("Transferor Company") and Peass Industrial Engineers Private Limited ("Applicant Transferee Company") and their respective shareholders and creditors with effect from the Appointed Date on the agreed terms and

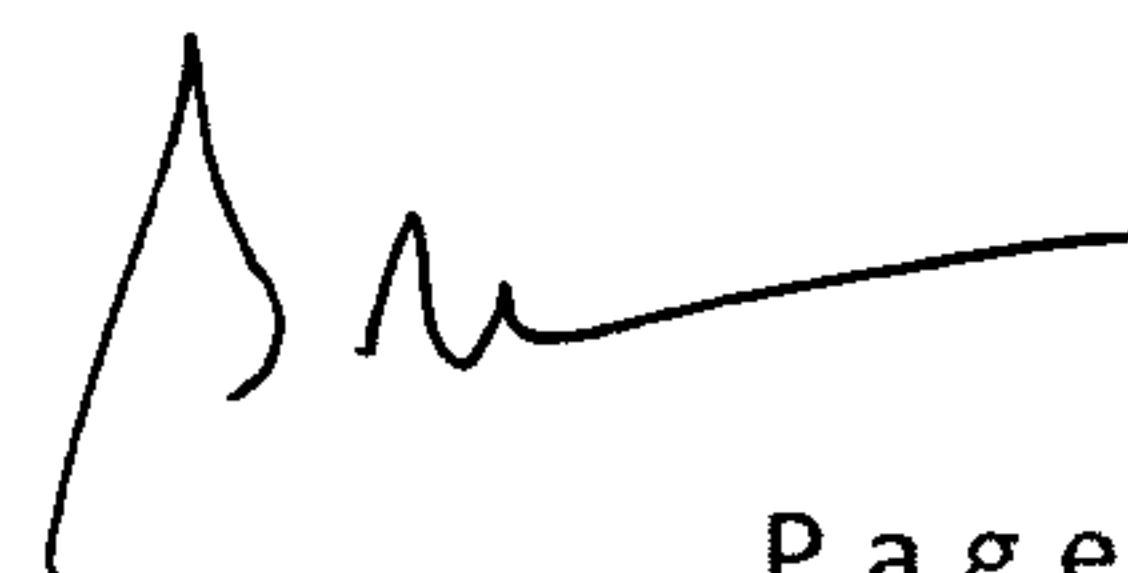


conditions as set out in the Scheme of Amalgamation annexed at Annexure-D in accordance with Sections 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013.

3. The Board of Directors of Applicant Transferee Company in the meeting held on 22nd September 2017, passed a resolution approving the proposed Scheme of Amalgamation placed before the Board. The Applicant Transferee Company has filed its audited and unaudited balance sheet as well a Chartered Accountant's Certificate dated September 28, 2017 issued by its Statutory Auditors certifying compliance with Section 133 of the Companies Act, 2013.

4. The Applicant Transferee Company stated that there are 9 equity shareholders in the Applicant Transferee Company. The list of equity shareholders as certified by the Chartered Accountant is produced at Annexure "E1". The Applicant Transferee Company filed original consent affidavits of more than 99% of the Equity Shareholders vide **Annexure "E2"**.

5. In view of the fact that consent of 100% Equity Shareholders of the Applicant Transferee Company is not produced, the meeting of Equity Shareholders of the Applicant Transferee Company, for the purpose of considering and, if



thought fit, approving the proposed Scheme of Amalgamation with or without modification(s) is required to be conducted.

6. It is stated that the Applicant Transferee Company has 1 Secured Creditor and a Chartered Accountant Certificate is annexed at Annexure "G". The Applicant Transferee Company has filed original consent letter of the sole secured creditor vide Annexure - G1.

7. In view of the fact that consent letter of the sole Secured Creditor is produced, the meeting of Secured Creditors of the Applicant Transferee Company, for the purpose of considering and, if thought fit, approving the proposed Scheme of Amalgamation with or without modification(s) is not required to be conducted and is hereby dispensed with.

8. Coming to unsecured creditors, the Applicant Transferee Company has 376 unsecured creditors. A Chartered Accountant Certificate certifying the same has been filed at Annexure-"H".

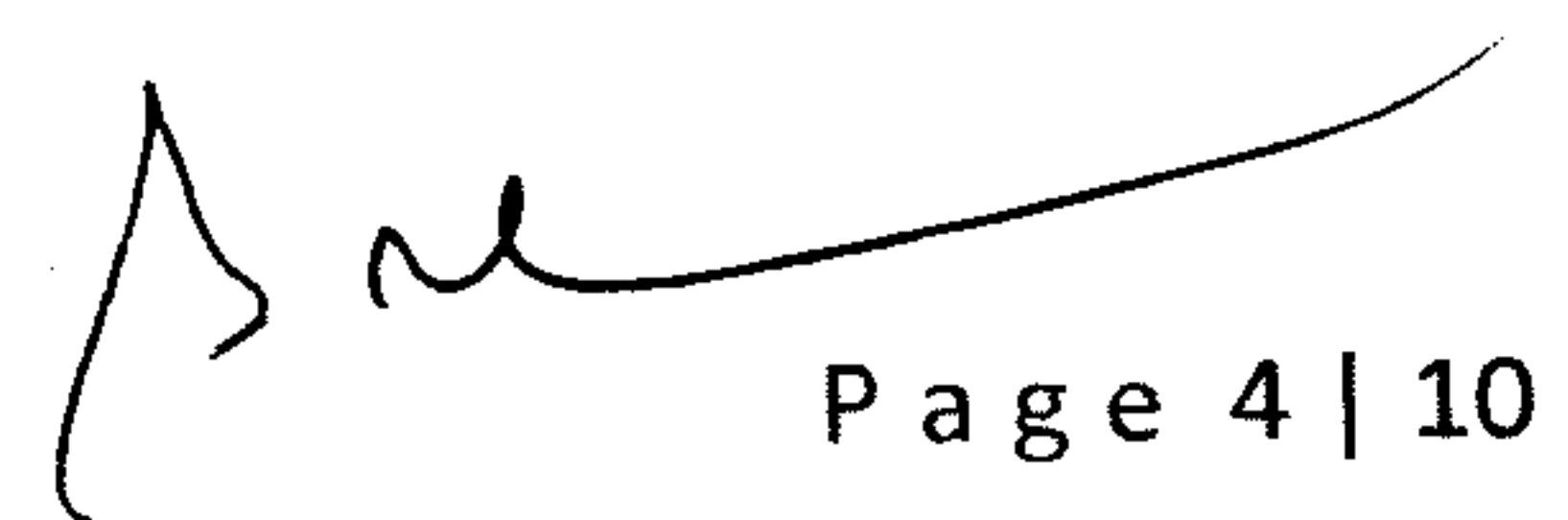
9. In view of the fact that consent letters of unsecured creditors of the Applicant Transferee Company are not produced, the meeting of unsecured creditors of the Applicant Transferee Company, for the purpose of considering and, if thought fit, approving the proposed Scheme of Amalgamation with or without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

10. It is stated in the Company Application that the provisions of the Reserve Bank of India Act, 1934 are not attracted to the Applicant Transferee Company therefore no notice is required to be issued to the Reserve Bank of India. It is 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. Having gone through the entire record, this Tribunal issues the following directions:-

I. A meeting of the Equity Shareholders of the Applicant Transferee Company shall be held on 18th January, 2018 at 10:30 AM at registered office at 11th floor at Maneklal, Road, Opp. Railway Yard, Navsari, Gujarat - 396 445, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme of Amalgamation.

II. A meeting of the Unsecured Creditors of the Applicant Transferee Company shall be held on 18th January, 2018 at 1:00 PM at registered office at 11th floor at Maneklal, Road opp. Railway Yard, Navsari, Gujarat - 396 445, for the purpose of considering and, if thought fit, approving with or without modification(s) the arrangement embodied in the Scheme of Amalgamation.



III. At least one month before 18th January, 2018, i.e. the date of the aforesaid meetings of the Equity Shareholders and the Unsecured Creditors of the Applicant Transferee Company, 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 of Amalgamation shall be made available to the concerned persons free of charge from the registered office of the Applicant Transferee Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Companies Act, 2013 read with Sections 230 to 232 of the Companies Act, 2013 and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Transferee Company in accordance with the second proviso to sub-section (3) of Section 230 of the Companies Act, 2013 and Rule 7 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

IV. In addition, at least one month before the date of the meetings of the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company 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 of Amalgamation, a copy of statement required to be furnished pursuant to Section 102 of the Companies Act, 2013 read with Sections 230 to 232 of the Companies Act, 2013 and Rule 6 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 and the prescribed form of proxy shall be sent to each of the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company at their respective addresses registered with the Applicant Transferee Company or last known addresses either by Registered post or Speed Post/Airmail or by Courier. The Notice shall be sent to the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company with reference to the list of the persons appearing on the record of the Applicant Transferee Company as on July 31, 2017.

- V. Mr. Yatin Patel, Chartered Accountant, shall be the Chairman/Chairperson of the aforesaid meetings to be held on 18th January, 2018 and in respect of any adjournment thereof.



- VI. Mr. Ajay Ranade, Company Secretary and in his absence, Mr. Hakim Ibrahim Borsadi, Company Secretary, shall be appointed as the Scrutinizer for the aforesaid meetings of the Applicant Transferee Company.
- VII. The Chairman or Chairperson appointed for the aforesaid meetings 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 Transferee 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 Transferee Company and also under the Rules framed under the Companies Act, 2013 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 of Amalgamation 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 and Unsecured Creditors of the Applicant Transferee Company by polling paper/ballot or otherwise.
- VIII. The quorum for the meeting of the Equity Shareholders shall be 2 (two) equity shareholders.



- IX. The quorum for the meeting of the Unsecured Creditors shall be 11 (eleven) unsecured creditors.
- X. 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 Transferee Company at its registered office at 11th floor at Maneklal, Road opp. Railway Yard, Navsari, Gujarat - 396 445 not later than 48 hours before the meetings vide Rule 10 of Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 read with Section 105 of the Companies Act, 2013.
- XI. The number and value of the Equity Shareholders and Unsecured Creditors of the Applicant Transferee Company, as the case may be, shall be in accordance with the records or registers of the Applicant Transferee 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.
- XII. 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 (Compromises, Arrangements and Amalgamation) Rules, 2106.

XIII. 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 (Compromises, Arrangements and Amalgamation) Rules, 2106 in from No. CAA.4 within seven days of conclusion of each of the aforesaid meetings.

12. In compliance of Sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (CAA) Rules, 2016, the Applicant Companies 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 and (3) the Income-Tax Authorities 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:  20.11.17
[Bikki Raveendra Babu, Member (J)]

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