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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA(CAA) No. 164/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 01.12.2017**

Name of the Company: Adani Green Energy 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.	SANDEEP SINGHI	ADVOCATES	APPLICANT	PARINI, K. SHAH
2.	PRANJAL BUCH			
3.	PARINI SHAH			

ORDER

Learned Advocate Mr. Sandeep Singhi with Learned Advocate Mr. Pranjali Buch with Learned Advocate Ms. Parini Shah present for Applicant.

Order pronounced in open Court. Vide Separate Sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 1st day of December, 2017.

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

CA(CAA) No.164/NCLT/AHM/2017

In the matter of :-

Adani Green Energy Limited,
a company incorporated under
the provisions of the Companies
Act, 2013 and having its
registered office at Adani House,
Near Mithakhali Six Roads,
Navrangpura, Ahmedabad – 380
009, Gujarat, India.

... Applicant
(Transferee Company)

Order delivered on 1st December, 2017

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

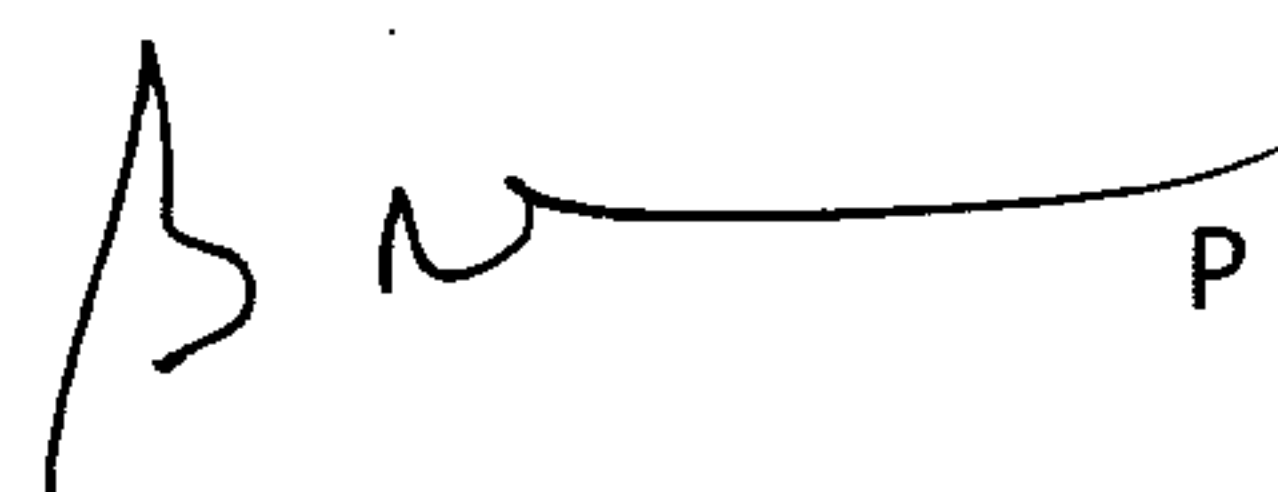
Appearance:

Mr. Sandeep Singhi with Mr. Pranjal Buch and Ms. Parini Shah,
Advocates, for M/s. Singhi & Co., Advocates, for the Applicant.

ORDER

1. Heard learned Advocates Mr. Sandeep Singhi for M/s. Singhi & Co., Advocates for the Applicant Company. Perused the application and the supporting affidavit of Mr. Pragnesh Darji, Company Secretary of the Applicant Company, dated 21st day of November 2017 and the documents annexed hereto.

2. Adani Green Energy Limited (hereinafter referred to as the "Transferee Company" or 'AGEL' as the context may admit) is an unlisted public company limited by shares.

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3. Adani Enterprises Limited (hereinafter referred to as the "Transferor Company" or "AEL" as the context may admit) is a public company limited by shares.

4. The Applicant Company filed this application seeking dispensation of the meeting of Equity Shareholders of the Applicant Company and seeking directions for convening of the meetings of Secured Creditors and Unsecured Creditors of the Applicant Company in respect of the arrangement embodied in the Scheme of Arrangement among Adani Enterprises Limited and Adani Green Energy Limited and their respective shareholders and creditors ("Scheme" for short) in the nature of (i) demerger of the Renewable Power Undertaking (as defined in the Scheme) of AEL and transfer of the same to AGEL; (ii) issuance of equity shares by AGEL to the equity shareholders of AEL; (iii) reduction of paid-up equity share capital of AGEL, pursuant to cancellation of equity shares held by AEL in AGEL; and (iv) increase in the authorized share capital of AGEL, pursuant to the provisions of Sections 230 - 232 of the Companies Act, 2013 (hereinafter referred to as the "Act") and other applicable provisions of the Act.

5. The Board of Directors of the Transferee Company, in the meeting held on 7th day of October 2017, passed a resolution approving the proposed Scheme placed before the Board. The

Applicant Company filed Annual Reports of the Transferee Company and the Transferor Company as on 31st March 2017. The Applicant Company also filed a copy of Valuation Report dated 7th day of October 2017. The Applicant Company also filed the original certificate issued by the Statutory Auditor of the Applicant Company issued under Section 133 of the Act.

6. It is stated in the application that there are 9 (nine) Equity Shareholders in the Transferee Company. The list of Equity Shareholders of the Transferee Company is produced as Annexure "Q". The Applicant Company has filed original consent affidavits of all the Equity Shareholders vide Annexure "R (Colly)".

7. In view of the consent affidavits of all the Equity Shareholders, the meeting of Equity Shareholders of the Applicant Company, for the purpose of considering and if thought fit, approving the arrangement embodied in the proposed Scheme with or without modification(s) is dispensed with.

8. It is stated in paragraph 39 of the application that no notice under Section 230(5) of the Act is required to be issued to the Competition Commission of India in the facts of the present case. It is further stated that as the Transferee Company is an unlisted public limited company, the notice under Section 230(5)

of the Act is also not required to be issued to (i) the Securities and Exchange Board of India, (ii) BSE Limited and (iii) National Stock Exchange of India Limited.

9. It is stated that the Applicant Company is having 2 (two) Secured Creditors. However, the Applicant Company did not file any consent affidavits of the Secured Creditors. Therefore, this Tribunal is of the view that the meeting of the Secured Creditors of the Applicant Company, for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme, cannot be dispensed with.

10. Coming to the Unsecured Creditors, the Applicant Company is having about 66 Unsecured Creditors (as on 15th day of November 2017). Consent affidavits of the Unsecured Creditors have not been filed by the Applicant Company. Therefore, this Tribunal is of the view that the meeting of the Unsecured Creditors of the Applicant Company, for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme, is necessary.

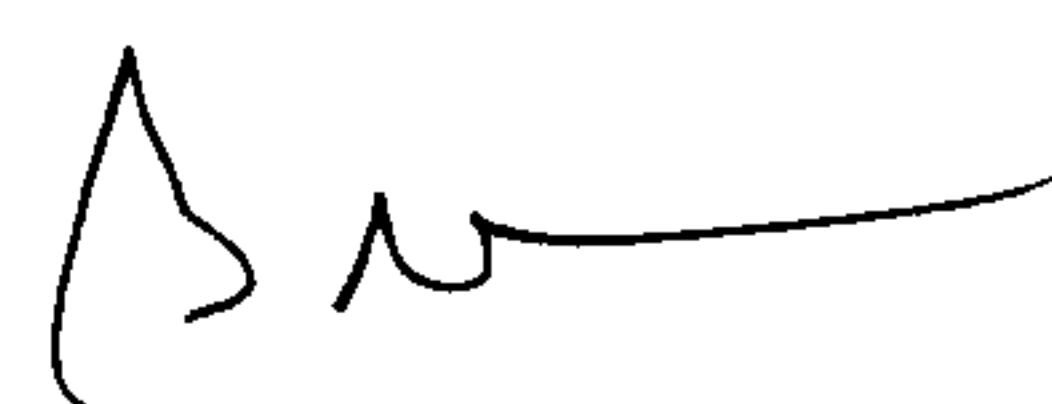
11. In view of the above, this Tribunal passes the following order:

- a. A meeting of the Secured Creditors of the Applicant Company shall be convened and held at J. B. Auditorium, Ahmedabad Management Association, Dr. Vikram Sarabhai Marg, ATIRA, Ahmedabad-380 015, Gujarat, India, on Wednesday, the

10th day of January 2018 at 1.00 p.m. (1300 hours), for the purpose of considering, and if thought fit, approving with or without modification(s), the arrangement embodied in the Scheme.

- b. A meeting of the Unsecured Creditors of the Applicant Company shall be convened and held at J. B. Auditorium, Ahmedabad Management Association, Dr. Vikram Sarabhai Marg, ATIRA, Ahmedabad-380 015, Gujarat, India, on Wednesday, the 10th day of January 2018 at 2.00 p.m. (1400 hours), for the purpose of considering, and if thought fit, approving with or without modification(s), the arrangement embodied in the Scheme.
- c. In view of Sections 230-232 of the Act read with rules 5 and 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ('Rules'), the meetings of the Secured Creditors and Unsecured Creditors of the Applicant Company shall be carried out through ballot/polling paper at the venue of the meeting to be held on Wednesday, the 10th day of January 2018.
- d. At least one month before 10th day of January 2018, i.e. the date of the aforesaid meetings, an advertisement about convening of the said meetings, indicating the day, the date, place and time aforesaid, shall be published in English Daily, Indian Express (Ahmedabad edition) and a Gujarati translation thereof in Sandesh (Ahmedabad edition). The publication shall indicate time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the registered office of the Applicant Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 of the Act read with Section 230-232 of the Act and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Company or at the office

- of its Advocates, i.e. M/s. Singhi & Co., Singhi House, 1, Magnet Corporate Park, Near Sola Flyover, S. G. Highway, Ahmedabad-380 059 in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Rules.
- e. In addition, at least one month before the date of the aforesaid meetings of the Secured Creditors and the Unsecured Creditors to be held as aforesaid, a notice convening the said meetings, indicating the day, the date, the place and time aforesaid, together with a copy of the Scheme, a copy of the statement required to be furnished pursuant to Section 102 of the Act read with the provisions of Sections 230 – 232 of the Act and Rule 6 of the Rules, and the prescribed form of Proxy, shall be sent to each of the Secured Creditors and the Unsecured Creditors of the Applicant Company at their respective registered or last known addresses either by Registered Post or Speed Post or by Courier. The notice shall be sent to the Secured Creditors and the Unsecured Creditors of the Applicant Company with reference to the list of the persons appearing on the record of the Applicant Company as on 30th day of November 2017. The aforesaid date of 30th day of November 2017 would be the date determining the eligibility to vote by the Secured Creditors and the Unsecured Creditors.
- f. Mr. Jay Shah, an Independent Director of the Applicant Company and in his absence Mr. Jayant Parimal, Managing Director of the Applicant Company shall be the Chairman of the aforesaid meetings to be held on Wednesday, the 10th day of January 2018 and in respect of any adjournment or adjournments thereof.
- g. Mr. Chirag Shah, a practicing Company Secretary, is appointed as the scrutinizer for the meeting of the Secured



Creditors and Unsecured Creditors of the Applicant Company.


- h. The Chairman appointed for the aforesaid meetings shall issue the advertisements and send out the notices of the meetings referred to above. The Chairman is free to avail the services of the Applicant Company or any agency for carrying out the aforesaid directions. The Chairman of the meetings shall have all powers under the Articles of Association of the Applicant Company and also under the Rules in relation to conduct of meetings, including for deciding any procedural questions that may arise at the meetings or at adjournment or adjournments thereof proposed at the said meetings, amendment(s) to the aforesaid Scheme or resolution, if any, proposed at the aforesaid meetings by any person(s) and to ascertain the decision of the sense of the meeting of the Secured Creditors and the Unsecured Creditors by ballot/polling paper.
- i. The quorum for the meeting of the Secured Creditors shall be 1 (one) persons present in person. The quorum for the meeting of the Unsecured Creditors shall be 5 (five) person present in person.
- j. Voting by proxy/authorised representative is permitted, provided that the proxy in the prescribed form/authorisation 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 Adani House, Near Mithakhali Six Roads, Navrangpura, Ahmedabad – 380 009, Gujarat, India, not later than 48 hours before the meetings vide Rule 10 of Rules read with Section 105 of the Act.
- k. The value of the debts of the Secured Creditors 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, subject to the orders of this Tribunal in the petition seeking sanction of the Scheme.

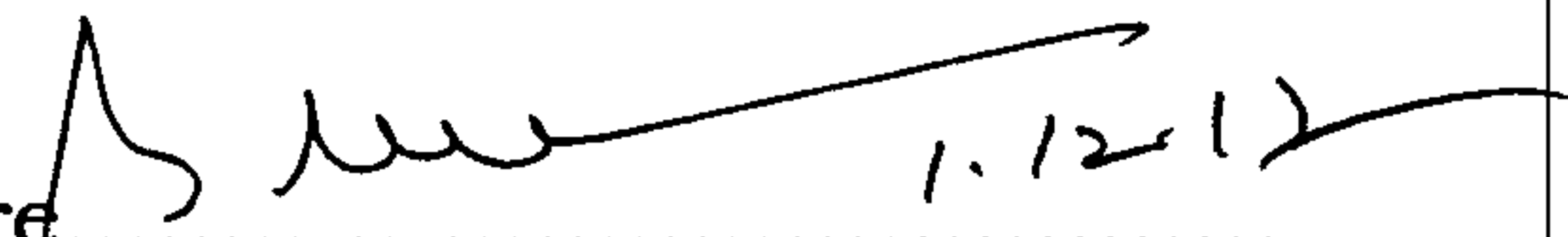
1. Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meetings and do report to this Tribunal that the directions regarding the issue of notices and the advertisement of the meetings, have been duly complied with as per Rule 12 of the Rules.
- m. It is further ordered that the Chairman shall report to this Tribunal on the result of the said meetings in Form No. CAA.4, verified by his affidavit as per Rule 14 of the Rules in Form No. CAA.4 within 7 (seven) days after the conclusion of the meetings. The report of Chairman shall be filed before this Tribunal by the Chairman himself, but not Applicant Company.

12. In compliance with sub-section (5) of Section 230 of the Act and Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, ("Rules" for short), the Applicant Company shall send a notice in Form No. CAA. 3 along with a copy of the Scheme, the explanatory statement and the disclosures mentioned under Rule 6 of Rules to (i) the Central Government through the Regional Director, North Western Region; (ii) the Registrar of Companies, Gujarat; (iii) the concerned Income Tax Authorities; and (iv) Reserve Bank of India, 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 said notice shall be sent forthwith by registered post or by speed post or by courier or by hand delivery at the office of the authority as required by sub-rule (2) of Rule 8 of the Rules. The aforesaid



authorities, who desire to make any representation under sub-section (5) of Section 230 of the Act, shall send to the Tribunal within a period of 30 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 arrangement.

13. This Company Application is disposed of accordingly.

Signature..... 1.12.12
(Bikki Raveendra Babu) Member (J)

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