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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA (CAA) No.45/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 12.05.2017**

Name of the Company:

Presidency Hospitality Ltd.
Presidency Leisure Ltd.
Presidency Tourism & Infrastructure Pvt Ltd
Krishna Portland Pvt Ltd.
Ghadokhop Agro Farms Pvt Ltd.
Baje Agro Farms Pvt Ltd.
Nanel Agro Farms Pvt 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.

2.

ORDER

None present for Applicant.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 12th day of May, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CA (CAA) No. 45/NCLT/AHM/2017

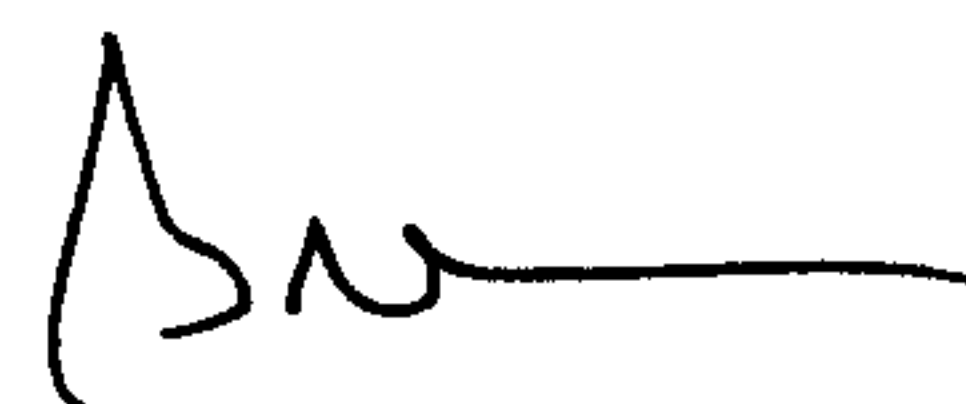
CORAM: SHRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

Date: 12th day of May, 2017

In the matter of:

Presidency Leisure Limited,
Presidency Tourism & Infrastructure Private Limited,
Krishna Portland Private Limited,
Ghadokhop Agro Farms Private Limited,
Baje Agro Farms Private Limited, - And
Nanel Agro Farms Private Limited, - With
Presidency Hospitality Limited.

1. Presidency Leisure Limited,
Having its Registered Office at Plot No. 9,
Akshay Appartments, R.V.Desai Road,
Vadodara, Gujarat-390001.
2. Presidency Tourism & Infrastructure
Private Limited
Having its Registered Office at 102,
Niharika Appartment-II,
Behind National Plaza,
R.C.Dutt Road, Alkapuri, Vadodara,
Gujarat- 390007
3. Krishna Portland Private Limited
Having its Registered Office at 506,
Plot No. 493, Village – Tundav,
Ta- Savli, Dist- Vadodara,
Gujarat- 391775
4. Ghadokhop Agro Farms Private Limited
Having its Registered Office at EX-2,
Anandvan Complex,
B/H. Aangan Towers,
Manjalpur, Vadodara,
Gujarat- 390011



5. Baje Agro Farms Private Limited
Having its Registered Office at EX-2,
Anandvan Complex,
B/H. Aangan Towers, Manjalpur,
Vadodara, Gujarat- 390011

6. Nanel Agro Farms Private Limited
Having its Registered Office at EX-2,
Anandvan Complex,
B/H. Aangan Towers, Manjalpur,
Vadodara, Gujarat- 390011

: Applicants.
Transferor Companies.

With

7. Presidency Hospitality Limited
Having its Registered Office at
R.S.No. 532/10, Behind Alkapuri
Petrol Pump, Besides Narional Plaza,
Vadodara- 390005

: Applicant
Transferee Company.

Appearance:

Mr. Kiran Shah, PCA for the Applicants.

FINAL ORDER

Pronounced on 12th day of May, 2017

1. This joint Application is filed by Presidency Leisure Ltd. (Transferor Company No. 1); Presidency Tourism & Infrastructure Pvt. Ltd. (Transferor Company No. 2); Krishna Portland Pvt. Ltd. (Transferor Company No. 3); Ghadokhop Agro Farms Pvt. Ltd. (Transferor Company No. 4); Baje Agro Farms Pvt. Ltd. (Transferor Company No. 5); Nanel Agro Farms Pvt. Ltd. (Transferor Company No. 6); and Presidency Hospitality Ltd. (Transferee Company) under Sections 230 to 232 of the Companies Act, 2013 [hereinafter referred to as 'the Act'] read with Rule 3 of The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the "Rules") seeking following directions;



- a. To per the Applicant Companies to dispense with convening and holding meetings of Equity Shareholders of the Transferee Company and Transferor Companies by virtue of the reason that both the Transferor Companies and the Transferee Company are closely held Companies owned and managed by same family members and controlled by same management;
 - b. To consider and approve the Scheme of Amalgamation between the Transferor Companies and the Transferee Company;
 - c. To permit the Applicant Companies to dispense with convening and holding meetings of Secured and Unsecured Creditors of the Transferee Company.
2. The Applicant Transferor No. 1 Company is a closely held Public Limited Company and Applicant Transferor Companies No. 2 to 6 are closely held Private Limited Companies having common Shareholders and Directors. The Applicant Transferee Company is the closely held Public Limited Company.
3. The Transferor Companies No. 1 to 6, in their Board Meeting held on 22nd January, 2017 approved the proposed Scheme of Arrangement in nature of amalgamation vide Exhibit- O. The Board of Directors of the Transferee Company by its Resolution dated 22nd January, 2017 approved the proposed Scheme of Arrangement in nature of amalgamation vide Exhibit "O". The Transferor Companies No. 1 to 6 filed certified Audited Financial

Statements as on 31st March, 2016, vide Exhibit "E" (colly.). The Transferee Company filed audited Financial Statements for the year ending on 31.3.2016, vide Exhibit "B".

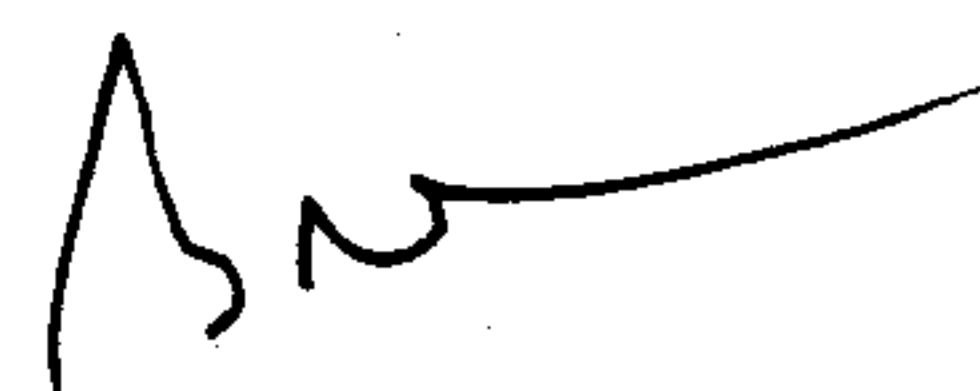
4. Transferor Companies No. 1 to 6 filed their unaudited Financial Results as on 31.01.2017, vide Exhibit "F" (colly.) and Transferee Company filed its unaudited Financial Results as on 31.01.2017 vide Exhibit "C". The true copy of the Scheme of Amalgamation is filed at Page Nos. 46 to 51. Applicant Companies also filed certified true copy of the Certificate on Accounting Treatment by Statutory Auditor.
5. The Scheme of Arrangements provides for amalgamation of six Transferor Companies which are closely held Public/Private Limited Companies and associate/group company of Applicant Transferee Company.
6. Transferor Company No. 1 is having 7 (Seven) equity shareholders. The Chartered Accountant certified that there are only 7 shareholders in the Applicant Transferor Company No. 1. The Consent Affidavits of all the shareholders of the Transferor Company No.1 are filed vide Page Nos. 459 to 465.
7. In view of the fact that Transferor Company No.1 is the closely held Public Limited Company and associate/group Company and considering the consent given by all the equity shareholders of Transferor Company No.1, the Meeting of the equity shareholders



of the Transferor Company No. 1 to consider, and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with. It is stated that there are no Secured Creditors of the Applicant Transferor Company No. 1. The Certificate of the Chartered Accountant, dated 26.4.2017 shows that there are no Secured Creditors to the Transferor Company No. 1 as on 20th January, 2017. Therefore, it is held that there is no need to convene the Meeting of the Secured Creditors of the Transferor Company No. 1.

8. Coming to the Unsecured Creditors of Transferor Company No.1, as per the certificate of Chartered Accountant, there is 01 Unsecured Creditor of the value of Rs. 33705.00 dated 26.4.2017 given his consent affidavit for the proposed scheme and waived his right to attend the meeting. In view of the consent letter given by the Unsecured Creditor of Applicant No.1 Transferor Company; the meeting with unsecured creditors of Applicant No.1 Transferor Company is dispensed with.

9. Applicant Transferor Company No.2 is having 4 (four) shareholders as can be seen from the certificate of the Chartered Accountant. Applicant Transferor Company No. 2 filed the Consent Letters of all the 4 shareholders vide Page No. 466 to 469. Therefore, the Meeting of the equity shareholders of the Transferor Company No. 2, for the purpose of considering and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with.



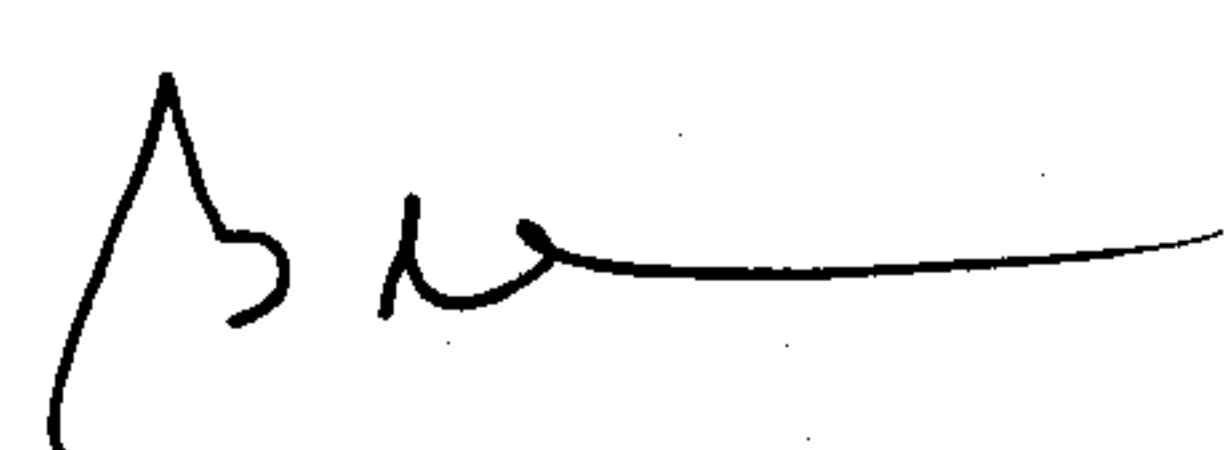
10. Coming to the Secured and Unsecured Creditors, it is stated that there are no Secured creditor of Transferor Company No. 2. The Chartered Accountant certified that there are no Secured Creditors and there is no need for Transferor Company No. 2 to hold the Meetings of its Secured Creditors. As per Certificate issued by the Chartered Accountants, Applicant No. 2 Transferor Company is having 18 unsecured creditors and out of which 9 unsecured creditors in value of Rs. 15,96,43,637 out of total value of creditors Rs. 16,59,84,609 which is 96.18% i.e. more than 90% in value as per Provision 230(9) of the Companies Act, 2013 have given their consent affidavits for the proposed Scheme and waived their rights to attend meeting. In view of consent letters given by required unsecured creditors in terms of Provision 230(9) of the Companies Act, 2013, the meeting of unsecured creditors of Applicant No.2 Transferor company is dispensed with.
11. Applicant Transferor Company No.3 is having 6 (Six) shareholders as can be seen from the certificate of the Chartered Accountant. Applicant Transferor Company No. 3 filed the Consent Letters of all the 4 shareholders vide Page No. 453 to 458. Therefore, the Meeting of the equity shareholders of the Transferor Company No. 3, for the purpose of considering and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with.
12. Coming to the Secured and Unsecured Creditors, it is stated that there are no Secured creditor of Transferor Company No. 3. The Chartered Accountant



certified that there are no Secured Creditors and there is no need for Transferor Company No. 3 to hold the Meeting of its Secured Creditors. As per Certificate issued by the Chartered Accountants dated 26.4.2017, Applicant No. 3 Transferor Company is having 02 unsecured creditors and all unsecured creditors in value of Rs. 1,89,32,117 which is 100.00% i.e. more than 90% in value as per Provision 230(9) of the Companies Act, 2013 have given their consent affidavits for the proposed Scheme and waived their rights to attend meeting. In view of consent letters given by required unsecured creditors in terms of Provision 230(9) of the Companies Act, 2013, the meeting of unsecured creditors of Applicant No.3 Transferor company is dispensed with.

13. Applicant Transferor Company No.4 is having 2 (Two) shareholders as can be seen from the certificate of the Chartered Accountant. Applicant Transferor Company No. 4 filed the Consent Letters of all the 2 shareholders vide Page No.451 to 452. Therefore, the Meeting of the equity shareholders of the Transferor Company No. 4, for the purpose of considering and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with.

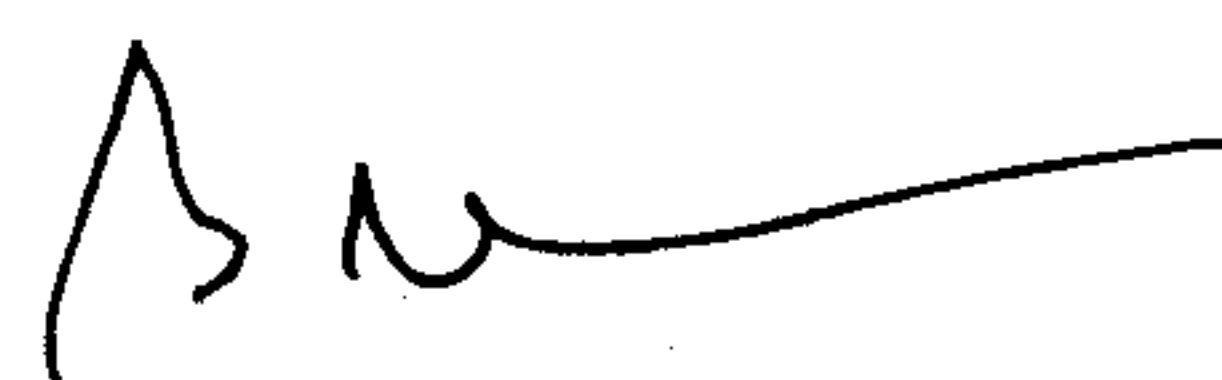
14. Coming to the Secured and Unsecured Creditors, it is stated that there are no Secured creditor of Transferor Company No. 4. The Chartered Accountant certified that there are no Secured Creditors and there is no need for Transferor Company No. 4 to hold the Meeting of its Secured Creditors. As per Certificate issued by the Chartered Accountants dated 26.4.2017



Applicant No. 4 Transferor Company is having 01 unsecured creditor value of Rs. 10,84,520 and has given his consent affidavits for the proposed Scheme and waived their rights to attend meeting. In view of consent letter given by required unsecured creditors in terms of Provision 230(9) of the Companies Act, 2013, the meeting of unsecured creditors of Applicant No.4 Transferor company is dispensed with.

15. Applicant Transferor Company No.5 is having 2 (Two) shareholders as can be seen from the certificate of the Chartered Accountant Applicant Transferor Company No. 5 filed the Consent Letters of all the 2 shareholders vide Page No.447 to 448. Therefore, the Meeting of the equity shareholders of the Transferor Company No. 5, for the purpose of considering and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with.

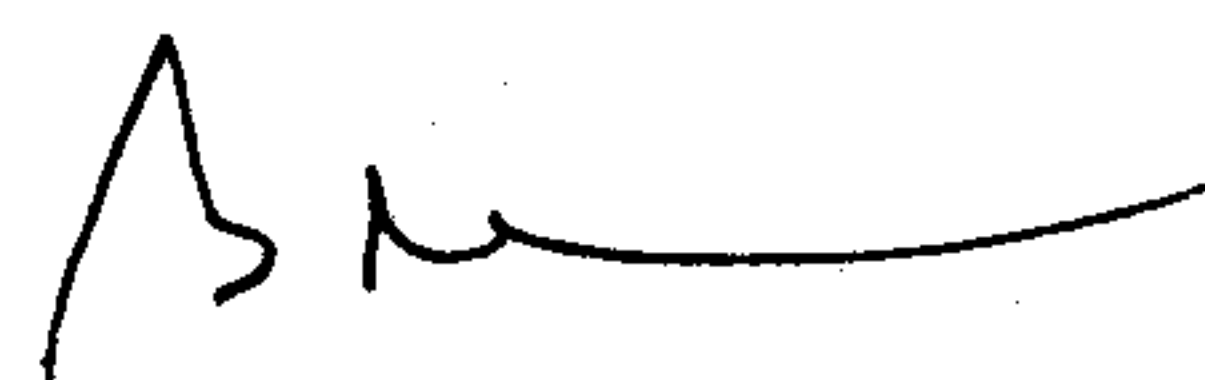
16. Coming to the Secured and Unsecured Creditors, it is stated that there are no Secured creditor of Transferor Company No. 5. The Chartered Accountant certified that there are no Secured Creditors and there is no need for Transferor Company No. 5 to hold the Meeting of its Secured Creditors. As per Certificate dated 26.4.2017 issued by the Chartered Accountants, Applicant No. 5 Transferor Company is having 02 unsecured creditors value of Rs. 1,20,000 and out of which unsecured creditors in value of Rs. 1,10,000 which is 91.67% i.e. more than 90% in value as per Provision 230(9) of the Companies Act, 2013 have given their consent affidavits for the proposed Scheme and waived their rights to attend meeting. In view of consent letters given by required unsecured creditors in terms of



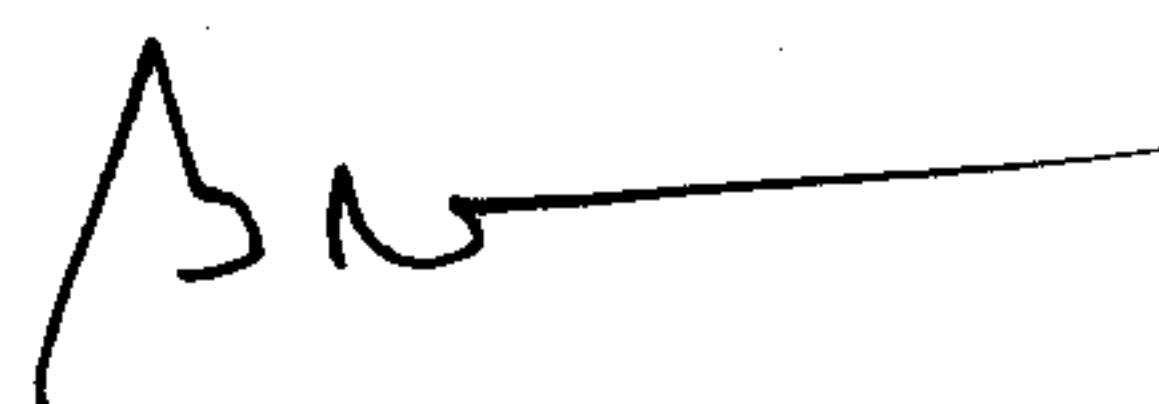
Provision 230(9) of the Companies Act, 2013, the meeting of unsecured creditors of Applicant No.5 Transferor company is dispensed with.

17. Applicant Transferor Company No.6 is having 2 (Two) shareholders as can be seen from the certificate of the Chartered Accountant Applicant Transferor Company No. 6 filed the Consent Letters of all the 2 shareholders vide Page No.449 to 450. Therefore, the Meeting of the equity shareholders of the Transferor Company No. 6, for the purpose of considering and, if thought fit, to approve the proposed Scheme with or without modifications, is dispensed with.

18. Coming to the Secured and Unsecured Creditors, it is stated that there are no Secured creditor of Transferor Company No. 6. The Chartered Accountant certified that there are no Secured Creditors and there is no need for Transferor Company No. 6 to hold the Meeting of its Secured Creditors. As per Certificate issued by the Chartered Accountants dated 26.4.2017 Applicant No. 6 Transferor Company is having 03 unsecured creditors and all unsecured creditors in value of Rs, Rs. 1,21,62,320 which is 100.00% i.e. more than 90% in value as per Provision 230(9) of the Companies Act, 2013 have given their consent affidavits for the proposed Scheme and waived their rights to attend meeting. In view of consent letters given by required unsecured creditors in terms of Provision 230(9) of the Companies Act, 2013, the meeting of unsecured creditors of Applicant No.6 Transferor company is dispensed with.



19. Now, coming to the Transferee Company, M/s. Presidency Hospitality Limited, it is a closely held Limited Company. The shares of the Transferee Company are not listed on any exchange.
20. In this case, there are Secured and Unsecured Creditors to the Transferee Company to the extent of 12.16 Crore Rupees which includes two secured creditors namely IFCI and Punjab National Bank.
21. Coming to the Secured Creditors of the Transferee Company, M/s. Presidency Hospitality Ltd., as per the Certificate of the Chartered Accountant there are 2 (Two) Secured Creditors. All two Secured Creditors gave Consent Letters and waived the Meeting of Creditors and gave consent for the proposed Scheme subject to their loan amounts due to them and stated that they are agreeing for dispensation of the Meeting of the Creditors.
22. Coming to the secured and Unsecured Creditors as on 20th Jan, 2017, there are 149 Creditors to the Transferee Company. The Certificate of the Chartered Accountant also discloses that there are 27 Creditors including two secured creditors which have given their consent affidavits of value which is in excess of 90% of the total value of the Creditors and therefore tribunal is of view that meeting of the secured and Unsecured Creditors of the transferee company can be dispensed with.
23. This Tribunal hereby hold that the Tribunal has got discretionary power to dispense with the meeting of equity



shareholders in family concerns and closely held companies wherein consents of the shareholders have been obtained.

24. Considering the above said facts of the case, this Tribunal records its following findings;

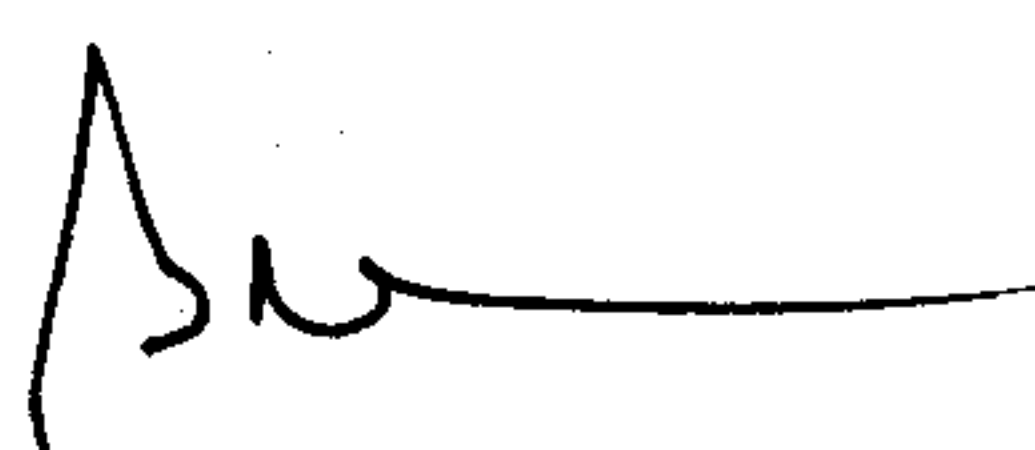
- a) All the shareholders of the Transferor Companies No. 1 to 6 and Transferee Company which are closely held public/private limited family companies have given consents for the scheme. In this view of the matter, this Tribunal is of view that meeting of equity shareholders of the applicant transferor companies no.1 to 6 and Transferee Company deserves to be dispensed with.
- b) Coming to the creditors, it is stated in the petition that the Applicant Transferor Companies No. 1 to 6 have no secured creditors and in the matter of unsecured creditors of the applicant transferor companies, required creditors in value which is in excess of 90 % in compliance of provisions of sub-section (9) of section 230 of the Companies Act, 2013 gave consents in writing for dispensing with the calling of meeting of the creditors for sanctioning of the proposed scheme. This averment made in the application is certified by the certificate of Chartered Accountant. This Tribunal, therefore, is inclined to dispense with meeting of the creditors of the Applicant Transferor Companies No. 1 to 6 by invoking sub-section (9) of Section 230 of the Companies Act, 2013. There is no need to hold the meeting of secured creditors since there are no secured creditors in Applicant Transferor Companies no. 1 to 6.



- c) Coming to the creditors of the Applicant Transferee company, Applicant Company has 2 (two) secured creditors and 147 unsecured creditors as on 20th January, 2017 and that required creditors i.e. more than 90% in value invoking sub-section (9) of Section 230 of the Companies Act, 2013, gave consents in writing for dispensing with the calling of the meeting of the creditors for sanctioning of the proposed scheme. This averment made in the application is certified by the certificate of Chartered Accountant dated 1.5.2017. This Tribunal, therefore, is inclined to dispense with meeting of the creditors, secured and unsecured, of the Applicant Transferee company by invoking sub-section (9) of Section 230 of the Companies Act, 2013.

25. In view of the above said findings, the following directions are issued;

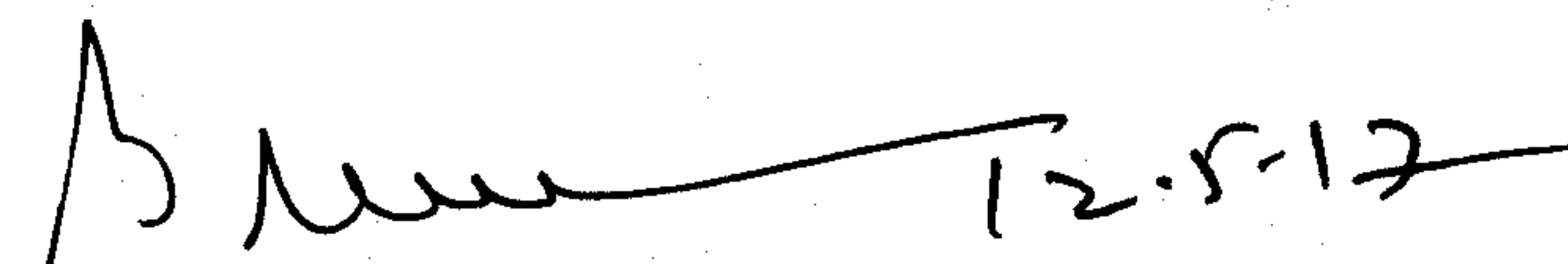
- a) Meeting of Equity Shareholders of Applicant Transferor Companies No. 1 to 6 and Transferee Company for the purpose of considering the Scheme of Amalgamation is dispensed with;
- b) Meeting of secured and unsecured creditors of the Applicant Transferor Companies No. 1 to 6 and Applicant Transferee Company for the purpose of considering the Scheme of Amalgamation is also dispensed with.
- c) The Applicant Transferor Companies No. 1 to 6 are directed to send notice in Form CAA3 along with a copy of the Scheme of Amalgamation and Explanatory statement to statutory authorities, namely, (a) the



Central Government through the Regional Director, North Western Region; Gujarat State (b) The Registrar of Companies, Gujarat; (c) The Income Tax Authorities; and (4) The Official Liquidator. And in case of the Applicant Transferee Company, it is directed to send notices to the above said authorities except Official Liquidator asking them to make representation(s), if any, in case they desire to make, within a period of 30 days from the date of receipt of notice, to this Tribunal and, in case no representation is received by this Tribunal within the stipulated period of 30 days, it shall be presumed that the authorities have no representation to make on the proposed Scheme of Amalgamation.

- d) The Applicant Companies shall give individual notices to the secured and unsecured creditors before the hearing of the petition that would be filed for sanctioning of the scheme.

26. This Company Application is disposed of accordingly.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court
on this the 12th day of May, 2017.