

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**CA(CAA) No. 69/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 05.06.2017**

Name of the Company: Sabar Engineering 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>
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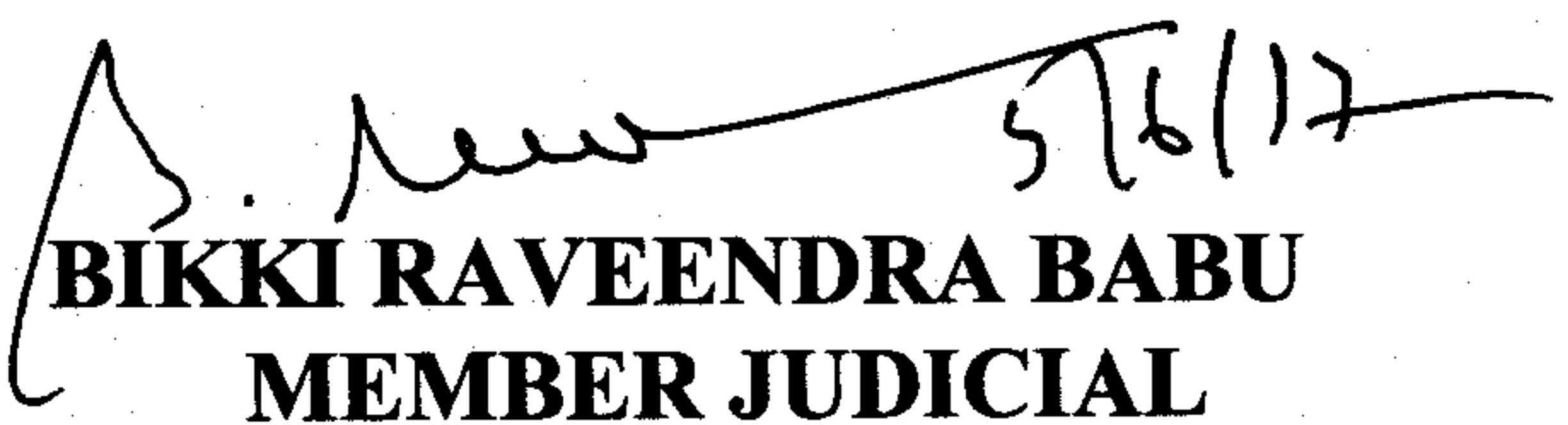
1.	NAVIN PAHWA	ADV.	PETITIONER	
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2.				
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**ORDER**

Learned Advocate Mr. Navin Pahwa present for Applicant.

Order pronounced in open Court. Vide separate sheet.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 5th day of June, 2017.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.A.(CAA) No.69/NCLT/AHM/2017**

**CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**

**(Date: 5<sup>th</sup> day of June, 2017)**

In the matter of: -

Sabar Engineering Private Limited,  
A Company having its Registered Office  
at: A-2, 3912, GIDC Estate, Phase-IV,  
Behind Cadmach, Vatva,  
Ahmedabad - 382445.

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Applicant  
(Transferor Company)

**Appearance: -**

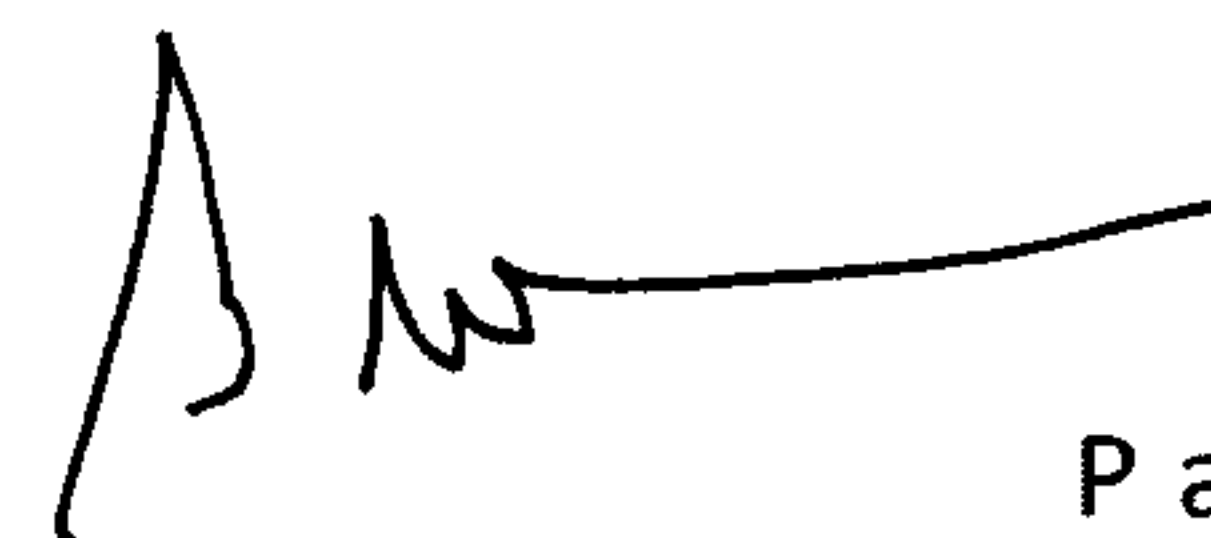
1. Mr. Navin Pahwa, Advocate, with Ms. Natasha Sutaria, Advocate, for M/s Thakkar & Pahwa, Advocates, for the Petitioner-company.

**FINAL ORDER**

(Date: 05.06.2017)

1. Sabar Engineering Private Limited (Transferee Company) has filed this application under section 230 to 232 of the Companies Act, 2013 seeking dispensation of meeting of equity shareholders of the applicant company for the purpose of considering and, if thought fit, approving, with or without modification, a Scheme of Amalgamation of Sabar Export (I) Private Limited (Transferor Company), with Sabar Engineering Private Limited (Transferee Company) ("Scheme" for short). The applicant has further prayed to hold that since no compromise has been proposed to the creditors and this being the Transferee Company, the meeting of the secured and unsecured creditors of the applicant company is not required to be held. Alternatively, the applicant has requested to issue appropriate directions for holding and convening the meetings of the creditors.

2. The applicant is a private limited company. Paid up equity share capital of the applicant company is Rs. 1,00,00,000/-. The Board of Directors of the applicant company has approved the Scheme of



Amalgamation by passing board resolution in their Meeting held on 2<sup>nd</sup> February 2017.

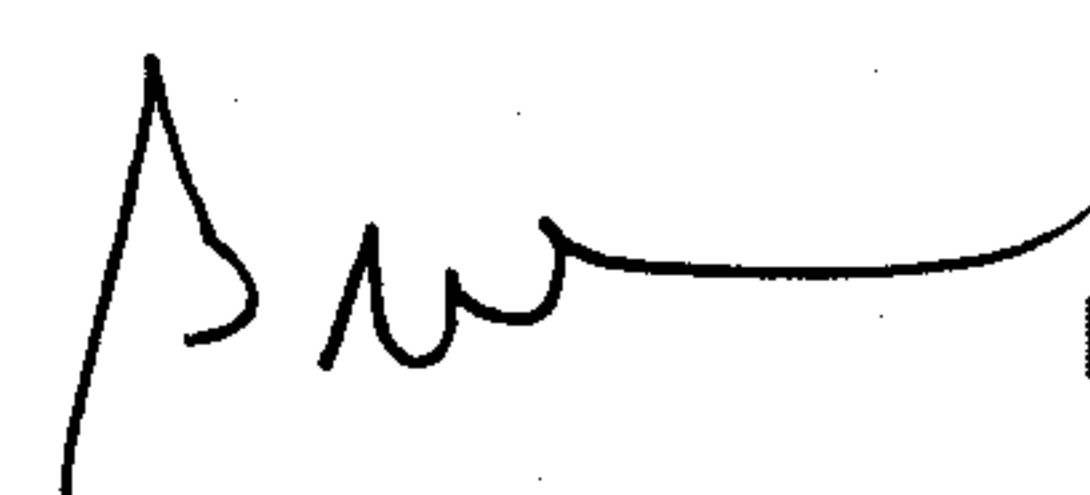
3. It is stated in the application that the accounting treatment specified in the Scheme is in conformity with the accounting standards prescribed in the Companies Act, 2013 and a certificate dated 24<sup>th</sup> April 2017, issued by the statutory auditors of the Company, is filed.

4. It is also stated in the application that the Company has nine equity shareholders and all the nine equity shareholders have given their consent, in writing, in approval to the Scheme of Amalgamation waiving their right to convene the meeting of equity shareholders. Affidavits of the shareholders are enclosed at Annexure-H Colly. Reliance is placed on certificate of GMCA & Co., Chartered Accountants, Annexure-I which certifies that the applicant company has nine equity shareholders.

5. 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 with or without modification(s) the Scheme, is dispensed with.

6. It is stated in the application that there are no secured creditors of the applicant company. Reliance is placed on certificate of GMCA & Co., Chartered Accountants dated 28<sup>th</sup> May 2017, which certifies that the applicant company does not have any secured creditor. Hence, the question of convening and holding of meeting of secure creditors of the applicant-company does not arise.

7. So far as the unsecured creditors are concerned, it is stated in the application that the proposed Scheme would not affect the creditors, either secured or unsecured and that the Scheme does not propose any compromise with the creditors. However, the applicant company has not obtained consent letters from the unsecured





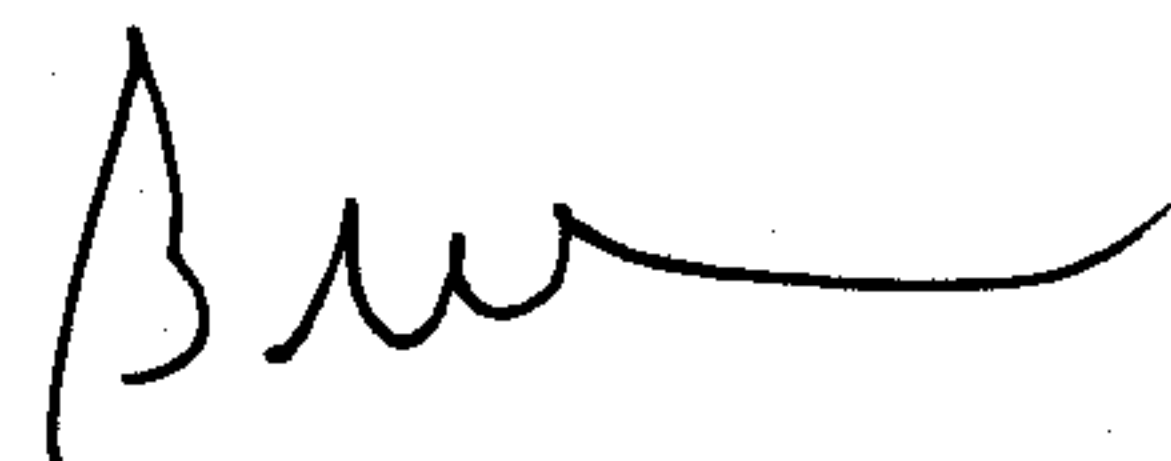
creditors. Therefore, this Tribunal is of the view that the meeting of unsecured creditors of the applicant company cannot be dispensed with.

8. Having considered the entire material on record, this Tribunal passes the following order: -

- (1) The applicant company is directed to convene and hold meeting of unsecured creditors of the applicant company as on date of filing of this application. The meeting of unsecured creditors shall be convened and held on 17<sup>th</sup> July 2017 at 4:00 pm at the registered office of the Company i.e. A-2 3912, G.I.D.C. Estate, Phase IV, B/H Cadmach, Vatva, Ahmedabad, for the purpose of considering, and if thought fit, approving, with or without modification, the Scheme.
- (2) At least one month before the date of the aforesaid meeting, an advertisement about convening of the said meeting, indicating the date, place and time as aforesaid, shall be published in "Indian Express" English Daily and Gujarati Daily "Sandesh" having circulation in Ahmedabad. The publication shall indicate the time within which copies of the 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 from the registered office of the applicant company or at the office of its advocates, viz. Thakkar and Pahwa, Advocates, 71, New York Tower-A, Opp. Muktidham Derasar, Thaltej, Ahmedabad-380059.
- (3) In addition, at least one month before the date of the aforesaid meeting of unsecured creditors of the applicant company to be held as aforesaid, notices convening the said meeting indicating

the day, date, 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 Section 230 to 232 of the Act and Rule 6 of the Companies (CAA) Rules, 2016 and the prescribed form of proxy shall be sent to each of the unsecured creditors of the applicant company at their respective registered or last known addresses either by registered post or speed post or air mail or by courier. The notices shall be sent to the unsecured creditors appearing on the record of applicant transferee-company as on the date of filing of the application.

- (4) Shri Murtuzabhai Pulavwala, Chartered Accountant and in his absence Shri Rashmikant Desai, Chartered Accountant shall be the Chairperson of the aforesaid meeting to be held on 17<sup>th</sup> July 2017 and in any adjourned meeting(s).
- (5) M/s. Shilpi Thapar & Associates, practicing Company Secretary, are appointed as Scrutinizer for the meeting of unsecured creditors of the applicant company.
- (6) The Chairperson appointed for the aforesaid meeting shall issue advertisements and send out notices of the meeting referred to above. The Chairperson is free to avail the services of the applicant company or any agency for carrying out the aforesaid directions. The 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 question that may arise at the meeting or adjournment thereof proposed at the said meeting, amendment(s) to the aforesaid scheme or resolutions, if any, proposed at the aforesaid meeting by any person(s) and to ascertain the decision of sense of the meeting of the unsecured creditors by polling paper/ ballot.



- (7) The quorum for the meeting of the unsecured creditors shall be 2 (two).
- (8) Voting by proxy or by authorised representative is permitted provided that the proxy in the prescribed form/ authorization duly signed by the person entitled to attend and vote at the aforesaid meeting is filed with the applicant company at its registered office, not later than 48 hours before the meeting vide Rule 10 of Companies (CAA) Rules, 2016 read with Section 105 of the Companies Act.
- (9) The number and value of unsecured creditors of the applicant company 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 Chairperson of the meeting shall determine the number or value, as the case may be, for the purposes of the meeting.
- (10) The Chairperson to file an affidavit not less than 7 (seven) days before the date fixed for holding of the meeting and to report to this Tribunal that the directions regarding issuance of notices and advertisements of meeting have been duly complied with as per Rule 12 of Companies (CAA) Rules, 2016.
- (11) It is further ordered that the Chairperson shall report to this Tribunal on the results of the meeting in Form CAA 4, verified by his affidavit, as per Rule 14 of the Companies (CAA) Rules, 2016 in Form CAA 4 within 7 (seven) days after conclusion of the meeting.
- (12) In compliance of subsection (5) of Section 230 and Rule 18 of the Companies (CAA) Rules, 2016, the applicant company shall send a notice of meeting under sub-section (3) of Section 230 read with Rule 6 of the Companies (CAA) Rules, 2016 in Form No. CAA.3 along with a copy of the Scheme, explanatory statement and the disclosures mentioned under Rule 6 to (i) the



Central Government through the Regional Director, North Western Region, (ii) The Registrar of Companies, (iii) The Income Tax Authorities stating that the 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 (s) shall be sent forthwith after notice is sent to the unsecured creditors of the applicant company 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 Companies (CAA) Rules, 2016. The aforesaid authorities, who desire to make any representation under sub-section (5) of Section 230 shall send the same to the Tribunal within a period of 30 days from the date of receipt of such notice, failing which it shall be deemed that they have no representation to make on the proposed amalgamation.

9. This Company Application is disposed of accordingly.

  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Pronounced by me in open court  
on this 5<sup>th</sup> day of June, 2017.

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