

17  
**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**T.P. No. 39/NCLT/AHM/2017 (New)  
Gujarat High Court C.P. No. 525/2016 with C.A. No. 372/2016 (Old)**

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 17.05.2017**

Name of the Company: Gala Print City Ltd

Section of the Companies Act: Section 391-394 of the Companies Act, 1956

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	NAVIN PAHWA	ADV.	PETITIONER	<i>Navin</i>
2.				

**ORDER**

Learned Advocate Mr. Navin Pahwa present for Petitioner.

Common Order pronounced in open Court. Vide separate sheet.

*17/5/17*  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 17<sup>th</sup> day of May, 2017.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**T.P. No. 40/NCLT/AHM/2017**

**WITH**

**T.P. No. 39/NCLT/AHM/2017**

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

**Date: 17<sup>th</sup> day of May, 2017**

In the matter of:

1. Gala Products Limited,  
A company incorporated under  
the provisions of the Companies Act, 1956,  
Having its registered office at  
B-8, 9, 10, Laxmi Commercial Co-operative Estate,  
B/h. Old Navneet Press, Sukhramnagar,  
Ahmedabad-380021.

... Petitioner of T.P. No.40/2017  
(Transferor Company)

AND

2. Gala Print City Limited  
A company incorporated under  
the provisions of the Companies Act, 1956,  
having its registered office at  
B-1, Laxmi Commercial Co-operative Estate,  
B/h. Old Navneet Press, Sukhramnagar,  
Ahmedabad-380021.

... Petitioner of T.P. No. 39/2017  
(Transferee Company)

Appearance:

Mr. Navin Pahwa with Ms. Natasha Sutaria, Advocates for the petitioner-companies.

**COMMON FINAL ORDER**

(Date:17.05.2017)

1. These petitions under Sections 230-232 of the Companies Act, 2013 have been filed seeking sanction of a proposed Scheme of Amalgamation of Gala Products Limited (Transferor Company) with Gala Print City Limited (Transferee Company) ("Scheme" for short).



2. The petitioner of T.P. No. 40 of 2017, i.e. Gala Products Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.371 of 2016, seeking dispensation of the meetings of Equity Shareholders and Creditors of the said Company. The Honourable High Court, vide order dated 16th August 2016, dispensed with the convening and holding of the meetings of the Equity Shareholders of the petitioner-company in view of the consent letters of the Equity Shareholders. In so far as the creditors are concerned, the Honourable High Court dispensed with the meeting of the creditors in view of contents of para 9 of the affidavit filed by the petitioner in support of judges summons which contained averments with regard to net worth of the Transferee Company being positive even after the merger.
3. The petitioner of T.P. No. 39 of 2017, i.e. Gala Print City Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.372 of 2016, seeking dispensation of the meeting of Equity Shareholders of the said Company. The Honourable High Court, vide order dated 16<sup>th</sup> August 2016 dispensed with the convening and holding of the meeting of equity shareholders of the petitioner Transferee-Company in view of the consent letters of the equity shareholders holding 98.86% of the value of aggregate paid up equity share capital of the Company, which is much more than the statutory majority. In that order, the Honourable High Court observed that being Transferee Company, the meeting of the creditors is not required to be held.
4. The petitioner transferee-company, thereafter, received an observation letter from Bombay Stock Exchange suggesting that the scheme proposed by the petitioner would be required to be modified to some extent. The petitioner, accordingly, proposed the modifications in the Scheme in the meeting of the Board of Directors of petitioner company held on 20<sup>th</sup> October 2016. The





petitioner thereafter also passed a special resolution of the shareholders of the Company through the process of postal ballot/ e-voting. A copy of the modified scheme is placed at Annexure-G to the petition.

5. The petitioners, thereafter, filed Company Petitions Nos. 524 and 525 of 2016 in the Honourable High Court of Gujarat seeking sanction of the Scheme. The Honourable High Court, by its orders dated 14<sup>th</sup> December 2016, admitted the aforesaid Company Petitions and directed the issuance of notice to the Regional Director in both the aforesaid Company Petitions and the Official Liquidator in Company Petition No. 524 of 2016. The High Court in para 5 of the order in the matter of petitioner transferee-company made a mention about the observations of BSE and subsequent passing of a Special Resolution by the company through postal ballot/e-voting to approve the modified Scheme. The High Court also directed publication of notice of hearing of the petitions in the English Daily Newspaper "Indian Express" and Gujarati Daily Newspaper "Financial Express" having circulation in Ahmedabad. The High Court also dispensed with publication of the notice in the Government Gazette.
6. Pursuant to the order dated 14<sup>th</sup> December' 2016 passed by the Honourable High Court, the petitioner- companies published the notice of hearing of the petitions in the English Daily Newspaper "Indian Express" and Gujarati Daily Newspaper "Financial Express", both having circulation in Ahmedabad on 24<sup>th</sup> December' 2016. The notices in respect of hearing of both the Company Petitions were served upon the Regional Director and the notice of hearing in respect of Company Petition no. 524 of 2016 was served upon the Official Liquidator and affidavits to that effect were also filed on behalf of the petitioner-companies.



7. Subsequently, the Honourable High Court in view of Rule 3 of The Companies (Transfer of Pending Proceedings) Rules, 2016 vide orders dated 10th February 2017, transferred the aforesaid Company Petitions to this Tribunal and they came to be renumbered as T.P. Nos. 40 and 39 of 2017 respectively. Thereafter, this Tribunal vide orders dated 16<sup>th</sup> March 2017, directed the petitioner-companies to publish notice in the newspaper in which already publication had been made informing the date of hearing. The petitioner-companies were also directed to give notice to the following statutory authorities:-

- a. Regional Director, Western Region, Gujarat,
- b. The Registrar of Companies, Gujarat;
- c. Reserve Bank of India;
- d. concerned Income Tax Authorities;

The petitioner-company in T.P. No. 40 of 2017 was also directed to serve notice on the Official Liquidator. The petitioner company in T.P. No.39 of 2017 was also directed to serve notice on SEBI and Bombay Stock Exchange. The petitioners were also directed to issue individual notices to equity shareholders and creditors informing the date of hearing.

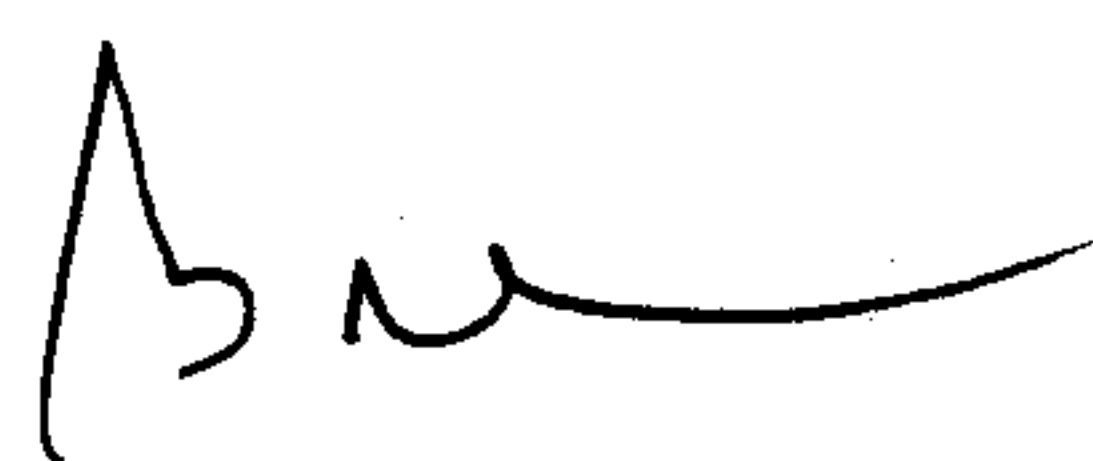
8. Accordingly, the petitioner-companies published a common notice of hearing of T.P. Nos. 39 and 40 of 2017 in English daily "Indian Express" and Gujarati Daily "Financial Express", both Ahmedabad editions on 5<sup>th</sup> April 2017. Notices of hearing of T.P. No.40 of 2017 were also served upon statutory authorities, namely, (i) the Central Government through the Regional Director, (ii) the Income Tax Authority, (iii) the Registrar of Companies, Gujarat, Ahmedabad, and (iv) Reserve Bank of India and (v) the Official Liquidator and an affidavit of service dated



20<sup>th</sup> April 2017 has been filed by the authorized signatory of the petitioner of T.P. No.40 of 2017. Notices of hearing of T.P. No.39 of 2017 were also served upon statutory authorities, namely, (i) the Central Government through the Regional Director, (ii) the Income Tax Authority, (iii) the Registrar of Companies, Gujarat, Ahmedabad, (iv) Reserve Bank of India; (v) Bombay Stock Exchange; and (vi) SEBI and an affidavit of service dated 20<sup>th</sup> April 2017 has been filed by the authorized signatory of the petitioner of T.P. No.39 of 2017. The petitioner companies also sent individual notices to equity shareholders and all class of creditors informing the date of hearing.

9. In response to the notice to the Regional Director, Ministry of Corporate Affairs, the Regional Director filed a common representation dated 27<sup>th</sup> April 2017. The Official Liquidator filed a representation dated 1<sup>st</sup> May 2017. The Bombay Stock Exchange sent a letter dated 24.4.2017 and thereafter, another letter was sent on 28.4.2017. However, no representation has been received from the Income Tax Authorities, Reserve Bank of India or SEBI. Similarly, pursuant to the publication of notice of hearing of the petitions in newspapers, no objection to the Scheme has been received from the public at large. Likewise, pursuant to the notices issued to shareholders and creditors of the petitioner-companies, no shareholder or creditor has raised any objection to the proposed Scheme.

10. In response to the common representation filed by the Regional Director, the petitioner-companies have filed common reply affidavit dated 3<sup>rd</sup> May, 2017. The petitioner transferor-company has filed its reply affidavit dated 3<sup>rd</sup> May, 2017 to the report of the Official Liquidator. The petitioner transferee-company has also filed separate affidavits dated 27<sup>th</sup> April 2017 and 29<sup>th</sup> April 2017 in response to the two letters received from Bombay Stock Exchange. The learned counsel for the petitioner





has also produced a copy of letter dated 24<sup>th</sup> April 2017 received from BSE.

11. Heard learned Advocates, Mr. Navin Pahwa with Ms. Natasha Sutaria, for M/s. Thakkar & Pahwa, Advocates, for the petitioner-companies.
12. The Regional Director has not made any adverse observations in his common representation. The Regional Director stated that, as per the report of the Registrar of Companies dated 10<sup>th</sup> February 2017, there are no complaints against the petitioner-companies and no complaint/representation against the Scheme of Arrangement of the petitioner-companies was received by the office of the Registrar of Companies. It is also stated by the Regional Director that the proposed Scheme is not prejudicial to the interest of the shareholders of the petitioner-companies and the public at large.
13. In response to the notice to the Official Liquidator in Company Petition No. 524 of 2016 (T.P. No.40 of 2017), the Official Liquidator filed his representation dated 1<sup>st</sup> May 2017. On perusal of the said report, the Official Liquidator, at paragraph 18, has submitted that the affairs of the Transferor Company have not been conducted in the manner prejudicial to the interest of its members or to public interest. With regard to the observations made by the Official Liquidator at paragraph 19 of the representation, in paragraph 3 of the affidavit dated 3<sup>rd</sup> May 2017, it is stated that the petitioner transferor-company shall preserve its books of accounts, papers and records and shall not dispose of the same without prior permission of the Central Government as required under Section 239 of the Act. In respect of the observation made at paragraph 20 of the representation, it is stated in paragraph 4 of the affidavit that the accounting treatment proposed in the Scheme is in

conformity with the Accounting Standards prescribed under the provisions of Section 133 of the Companies Act, 2013. In this regard, the petitioner-companies along with separate affidavits, produced certificates from auditors certifying that the proposed accounting treatment contained in the Scheme is in compliance with Accounting Standards specified under Section 133 of the Companies Act, 2013 and other Generally Accepted Accounting Principles. In paragraph 21 of the representation, the Official Liquidator requested the Tribunal to direct the petitioner-company to ensure statutory compliance of all applicable laws and also on sanctioning of the Scheme, the petitioner-company be not absolved from any of its statutory liability, in any manner. In reply, given in para 5 of the affidavit, the petitioner transferor-company has stated that the petitioner-company shall ensure statutory compliance of all the applicable law and it is further stated that it is also understood that upon sanction of the Scheme, the petitioner transferor-company shall not be absolved from any of its statutory liability, if any, in any manner. The Official Liquidator requested the Tribunal to direct the petitioner transferor-company to pay cost of Rs. 15,000/- to the office of Official Liquidator. No objection has been received from the public at large pursuant to publication of notice of hearing in newspapers.

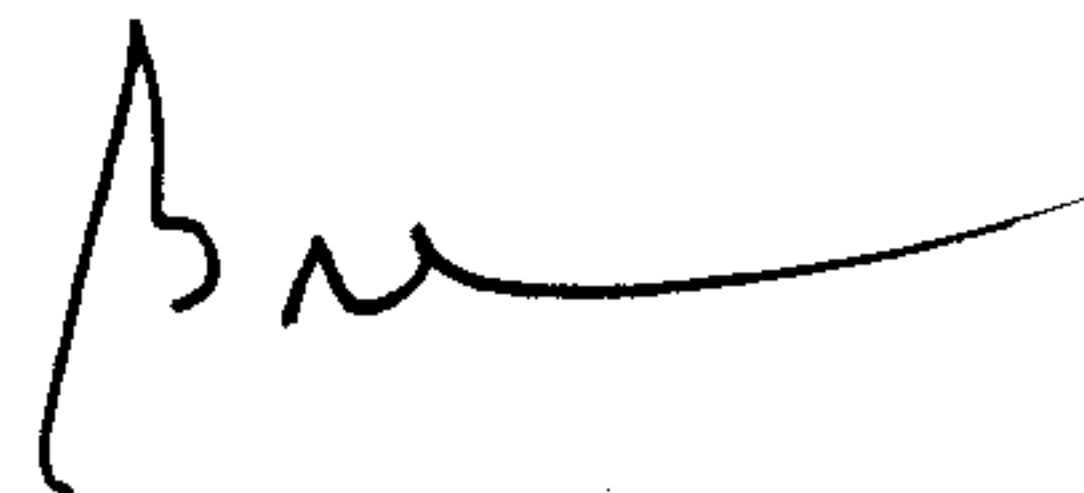
14. In response to the observations of Bombay Stock Exchange vide letter dated 24.04.2017, the Managing Director of the petitioner transferee-company filed affidavit dated 27<sup>th</sup> April, 2017. It is stated in the said affidavit that pursuant to letter dated 21.9.2016 addressed by BSE to the petitioner, the petitioner-company proposed modification in the Scheme by holding meeting of the Board of Directors of the Company on 20.10.2016. In that meeting, as required by BSE and in compliance with SEBI Circular, the petitioner proposed a special resolution and the Board of Directors of the accorded approval to conduct postal ballot/e-voting to seek consent of



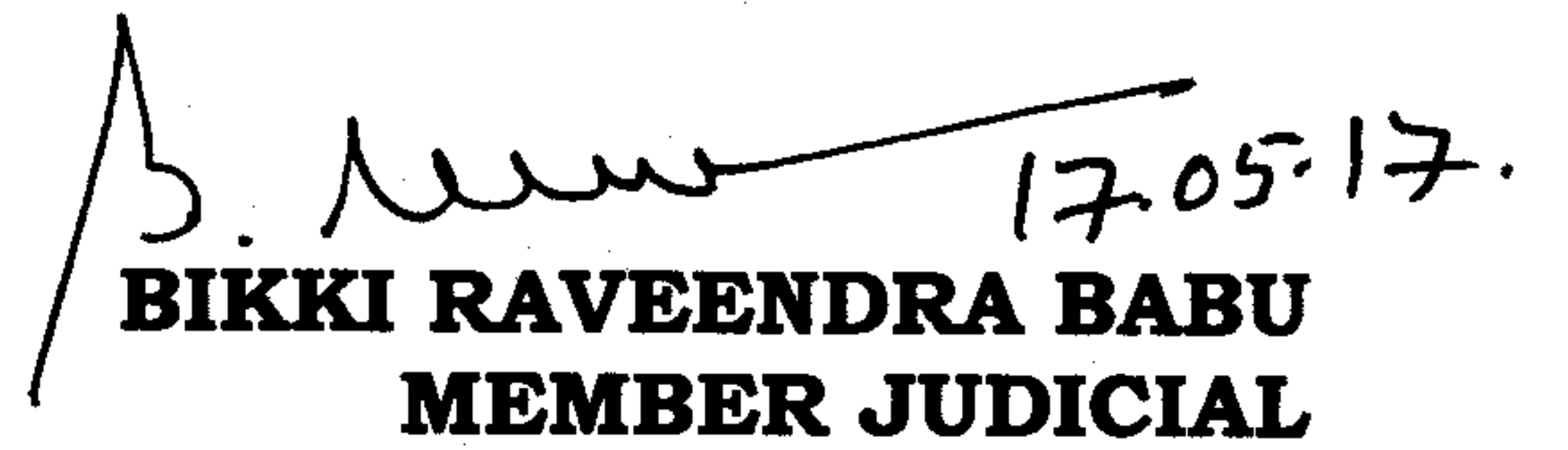
shareholders for approval of the modified Scheme of Amalgamation. It is stated in the affidavit that the shareholders of the company have unanimously approved the Scheme by postal ballot and E-voting on 03.12.2016. The said fact was informed to BSE by the petitioner vide letter dated 3.12.2016 (Annexure-F to the petition). Subsequently, in response to BSE letter dated 28.04.2017, another affidavit dated 29<sup>th</sup> April, 2017 came to be filed by the petitioner-company, wherein it is categorically stated that the observation of the BSE has been implemented by submitting the modified Scheme. The High Court in paragraph 5 of the order in C.P. No.524 of 2016 made a mention about the observations of BSE and subsequent passing of a Special Resolution by the company through postal ballot/e-voting to approve the modified Scheme. In light of the above, this Tribunal is of the view that there is sufficient compliance of clauses 9(a) and (b) of SEBI Circular dated 30.11.2015.

15. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the documents produced on record, it appears that the requirements of the provisions of Sections 230 and 232 of the Companies Act, 2013 are satisfied. The Scheme appears to be genuine and *bona fide* and in the interest of the shareholders and creditors.

16. In the result, these petitions are allowed. The Scheme of Amalgamation which is at Annexure-F in T.P. No.40 of 2017 and Annexure-G in T.P. No.39 of 2017, is hereby sanctioned and it is declared that the same shall be binding on the petitioner-companies namely, Gala Products Limited and Gala Print City Limited, their equity shareholders, creditors and all concerned under the Scheme. It is also declared that the petitioner-company, namely, Gala Products Limited, shall stand dissolved without winding up.



17. The fees of the Official Liquidator are quantified at Rs. 15,000/- in respect of T.P. No. 40 of 2017. The said fees to the Official Liquidator shall be paid by the Transferee Company.
18. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the certified copy of this order along with the Scheme immediately.

 17.05.17.  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Pronounced by me in open court  
on this 17<sup>th</sup> day of May, 2017.

*gt*