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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**CP(CAA) No. 22/NCLT/AHM/2017
With Gujarat High Court CA no. 530 of 2016**


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 31.08.2017**

Name of the Company: Madhav Infra Projects Ltd.

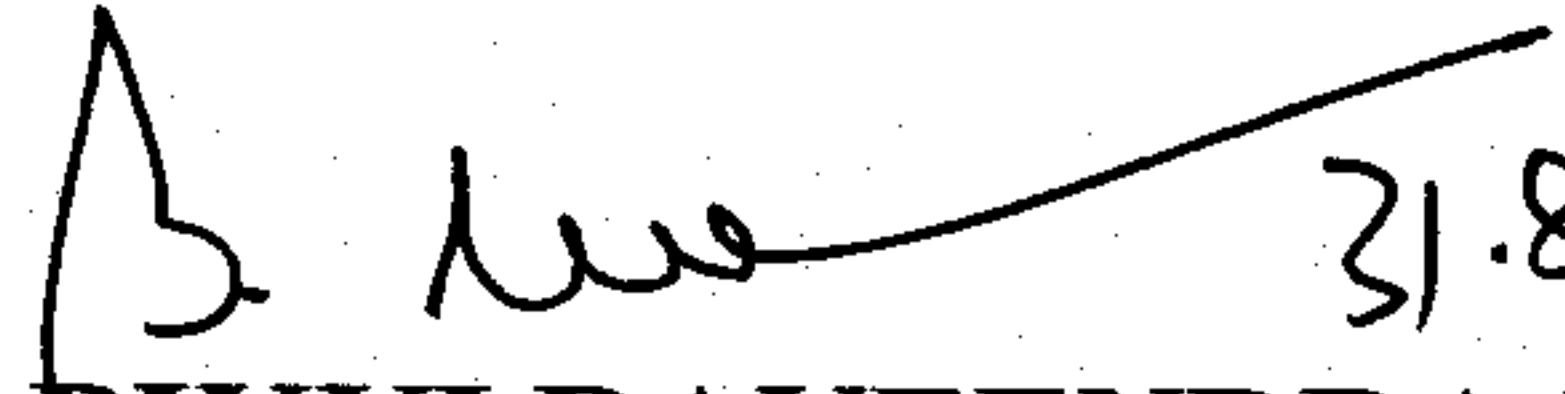
Section of the Companies Act: Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	NAVIN PAHWA	ADVOCATE	APPLICANT	
2.				

ORDER

Learned Advocate Mr. Navin Pahwa present for Petitioner.

Common order pronounced in open Court. Vide separate sheet.

 31.8.17
**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 31st day of August, 2017.

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

CP(CAA) No. 21/NCLT/AHM/2017

And

CP(CAA) No. 22/NCLT/AHM/2017

In the matter of :-

1. MSK Projects (India) (JV) Limited,
A company incorporated under
the provisions of Companies Act,
1956 and having its registered
office at Madhav House,
Near Panchratna Building,
Subhanpura,
Vadodara.

... Petitioner
(Transferor Company)

And

2. Madhav Infra Projects Limited,
A company incorporated under
the provisions of Companies Act,
1956 and having its registered
office at 24, Laxmi Chambers,
Navjivan Press Road,
Near Old High Court,
Ahmedabad.

... Petitioner
(Transferee Company)

Order delivered on 31st August, 2017

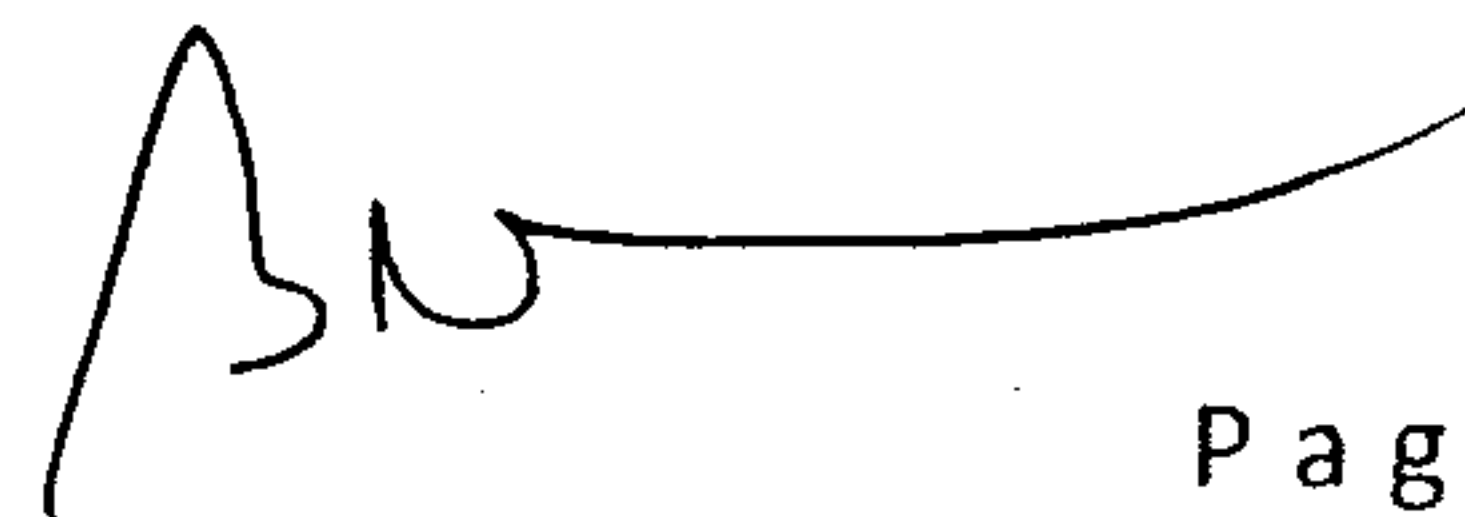
Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

Mr. Navin Pahwa, Advocate for M/s Thakkar & Pahwa, Advocates for
the petitioner companies.

COMMON ORDER

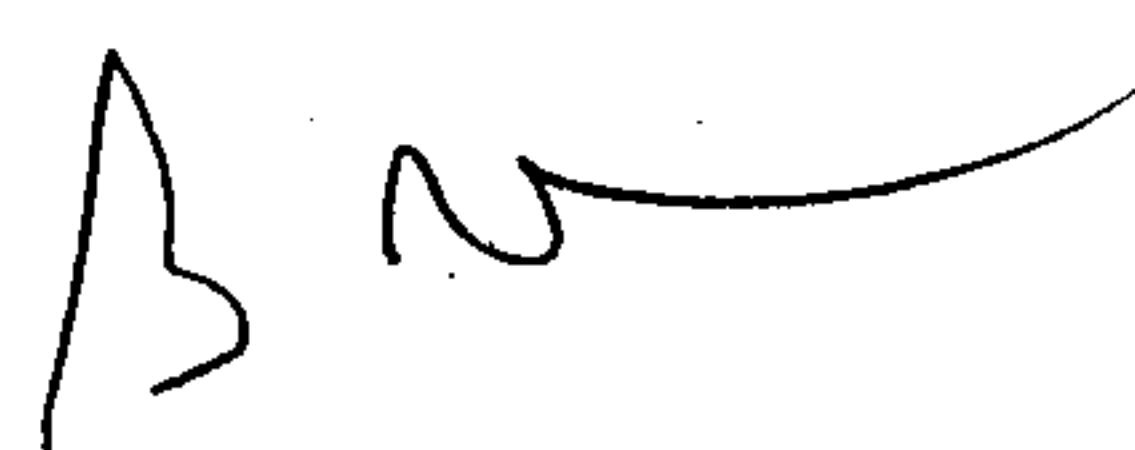
1. These are the petitions filed by the two Petitioner
Companies for sanctioning of a Scheme of Amalgamation of MSK



Project (India) (JV) Limited (Transferor Company) with Madhav Infra Projects Limited (Transferee Company) ["Scheme" for short].

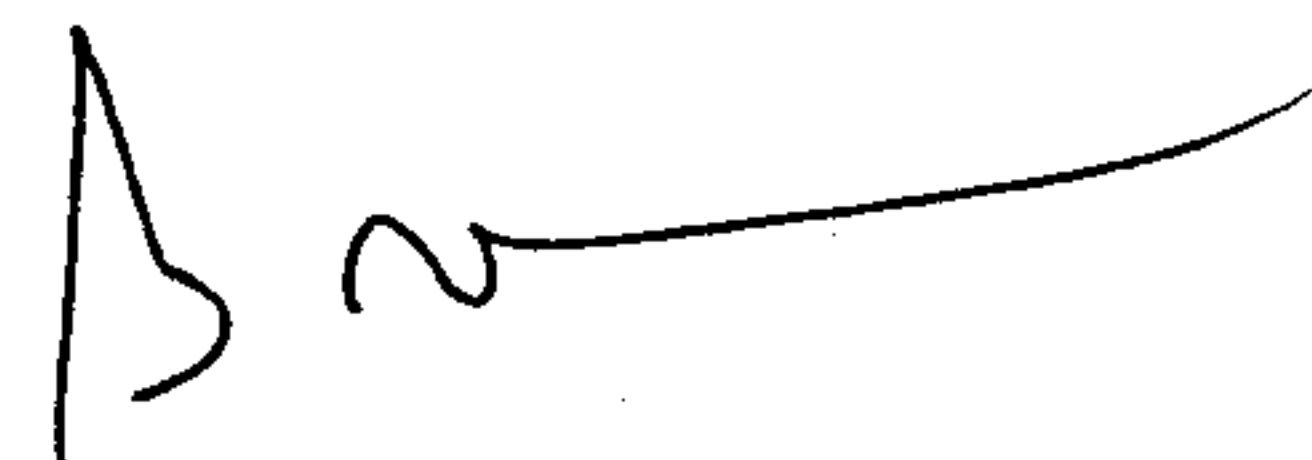
2. The Petitioner of the C.P. (CAA) No. 21/NCLT/AHM/2017, i.e., MSK Projects India (JV) Limited, had filed an application before the Honourable High Court of Gujarat, being Company Application No.531 of 2016, seeking dispensation of meetings of Equity Shareholders and Unsecured Creditors of the petitioner company for the purpose of considering and, if thought fit, approving with or without modification(s) the Scheme of Amalgamation. The Honourable High Court of Gujarat, vide order dated 14th December, 2016 was pleased to dispense with the meetings of Equity Shareholders and Unsecured Creditors, as prayed for by the petitioner company. The Honourable High Court also noted in the said order that there were no Secured Creditors of the petitioner company.

3. The Petitioner of the C.P. (CAA) No. 22/NCLT/AHM/2017, i.e., Madhav Infra Projects Limited, had filed an application before the Honourable High Court of Gujarat, being Company Application No.530 of 2016, seeking requisite directions for convening and holding meeting of Equity Shareholders and for dispensation of meetings of Preference Shareholders and Unsecured Creditors of the said Company. The Honourable High Court of Gujarat, vide order dated 14th December, 2016 was pleased to dispense with the meeting of Preference Shareholders



and was also pleased to issue necessary directions for the purpose of holding meeting of Equity Shareholders of the petitioner company. Thereafter, by order dated 06.04.2017 passed in Misc. Civil Application (OJ) No.72 of 2017, the Honourable High Court was pleased to modify the order dated 14.12.2016 passed in Company Application No.530 of 2016 by holding that the meeting of creditors of the petitioner company was not required to be held.

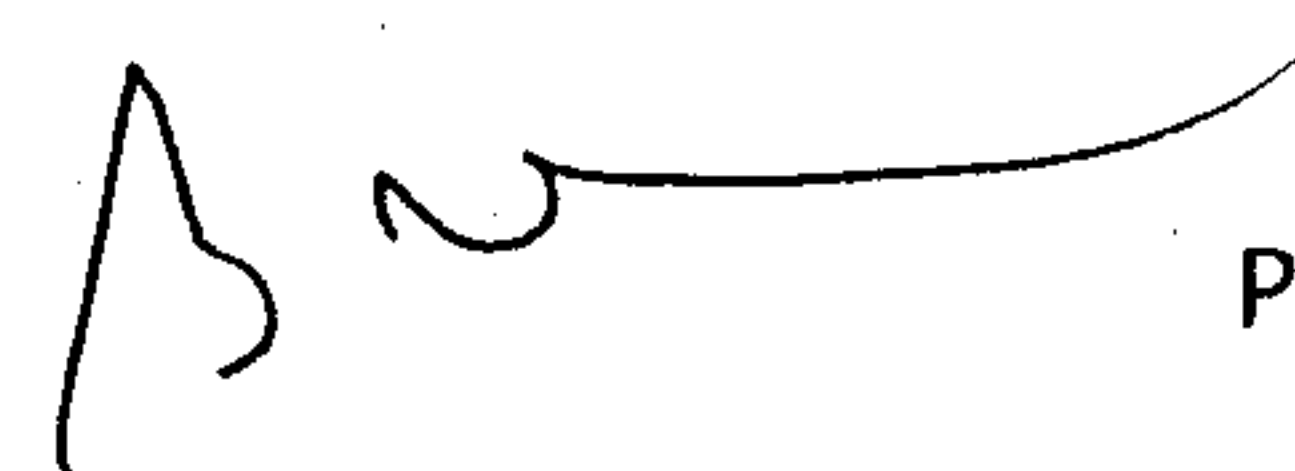
4. Notice of meeting was sent individually to the Equity Shareholders of the petitioner transferee company pursuant to the order dated 14.12.2016, together with a copy of the Scheme, a copy of the Explanatory Statement required to be furnished under Section 230-232 read with Section 102 of the Companies Act, 2013 and the prescribed Form of Proxy, amongst others. The notice of meeting was also advertised as directed by the Honourable High Court in English daily, "Indian Express" and Gujarati daily, "Financial Express", both Ahmedabad Editions and the Chairperson of the meeting filed requisite affidavit before the Honourable High Court on 13.02.2017. The members present in the meeting unanimously approved the Scheme. The Chairperson's report dated 23.01. 2017 has also been filed before this Tribunal along with the C.P. (CAA) No. 22/NCLT/AHM/2017.



5. The Petitioner Companies thereafter filed the present petitions, seeking sanction of the Scheme. This Tribunal by its orders dated 12.04.2017 admitted the aforesaid Company Petitions and directed issuance of notice of hearing of petition to (i) the Regional Director, (ii) Registrar of Companies (iii) Income tax authorities and (iv) Official Liquidator in case of C.P. (CAA) No. 21/NCLT/AHM/2017 and to (i) the Regional Director, (ii) Registrar of Companies, Gujarat, (iii) Income tax authorities, (iv) Securities and Exchange Board of India; and (v) Bombay Stock Exchange in case of C.P. (CAA) No. 22/NCLT/AHM/2017. This Tribunal also directed publication of notice of hearing of the petitions in English daily, "Indian Express" and in Gujarati daily, "Financial Express", both Ahmedabad Editions.

6. Pursuant to the order dated 12.04.2017 passed by this Tribunal, the petitioners companies have filed affidavit of proof of service of notice to statutory authorities as well as affidavit of proof of publication of notice in newspapers.

7. In response to the notice to the Regional Director, Ministry of Corporate Affairs, the Regional Director has filed common representation dated 13th June, 2017. The Official Liquidator has filed representation dated 27th June, 2017. No representation is received from any other statutory authority. As there are no adverse observations made by any of the authorities, the petitioners have chosen not to file any reply.



8. Heard learned Advocate, Mr. Navin Pahwa with Ms. Natasha Sutharia, Advocate for M/s Thakkar & Pahwa, Advocates for the petitioner companies.

9. Paragraph 2(a) and 2(b) of the representation of the Regional Director dated 22.07.2017, deals with the factual aspects of the Scheme such as Jurisdiction and Transfer of Assets and Liabilities. In paragraph 2(c), the Regional Director has observed that the petitioner transferee company is listed with BSE and, therefore, this Tribunal may direct the transferee company to ensure compliance of SEBI guidelines. Learned Advocate for the petitioners has submitted that though notice was served upon BSE as well as SEBI, no representation has been received from them. The Regional Director in paragraph 2(d) of the representation has observed that the capital clause of the Transferee Company shall be amended through this scheme under the accepted principle of Single Window Clearance as per Clause 13.3 of the Scheme. Vide para 2(f) it is confirmed that the Registrar of Companies has submitted its report to the Regional Director and further confirmed that there were no complaints against the Petitioner Companies and there was no complaint/representation against the proposed scheme of amalgamation. Vide para 2(g) of the said representation, it is confirmed that the Regional Director has no other observation/submissions for the Scheme and that the Scheme is

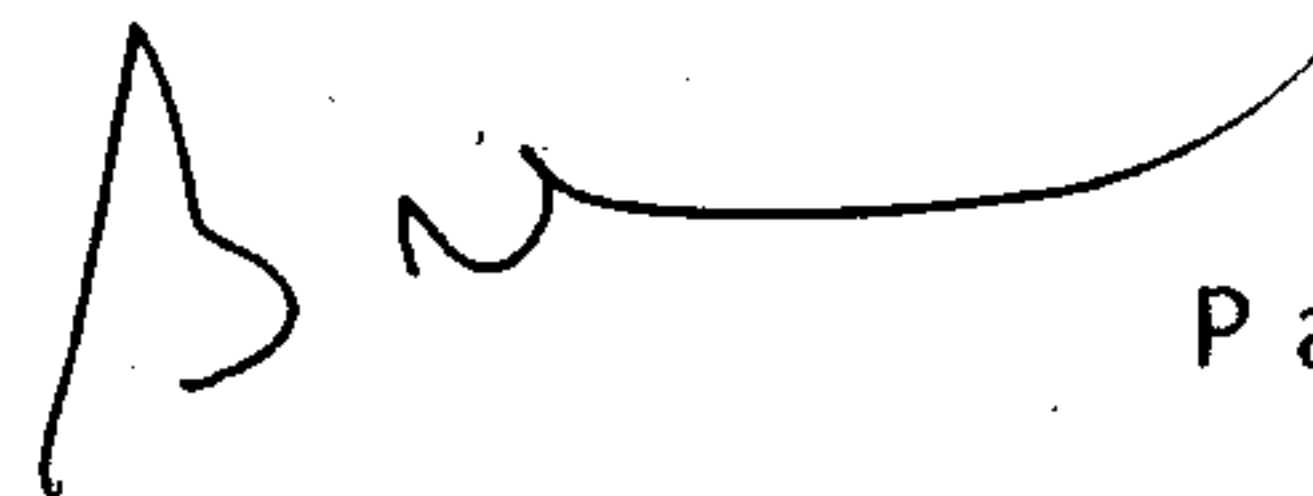


not prejudicial to the interest of shareholders of the Petitioner Company and the public at large.

10. The Official Liquidator, in the representation, referring to the proposals of the Scheme, has observed that the petitioner transferor company may be dissolved without following the process of winding up. However, the Official Liquidator has sought directions to be issued to preserve the books of accounts, papers and records of the Transferor Company and not to dispose of the same without prior permission of the Central Government as per the provisions of Section 239 of the Companies Act, 2013. The Official Liquidator has also sought a direction of this Tribunal to the petitioner company for ensuring statutory compliance of all applicable laws.

11. In compliance with the proviso to sub-section (7) of Section 230, the petitioner companies have placed on record along certificates issued by their Auditors confirming that the accounting treatment envisaged in the Scheme is in compliance with the applicable Accounting Standards prescribed in Section 133 of the Companies Act, 2013.

12. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the proceedings, it appears that the requirements of the provisions of Sections 230-232 of the Companies Act, 2013 have been duly complied with. The



Scheme is genuine and *bona fide* and in the interest of the shareholders and creditors.

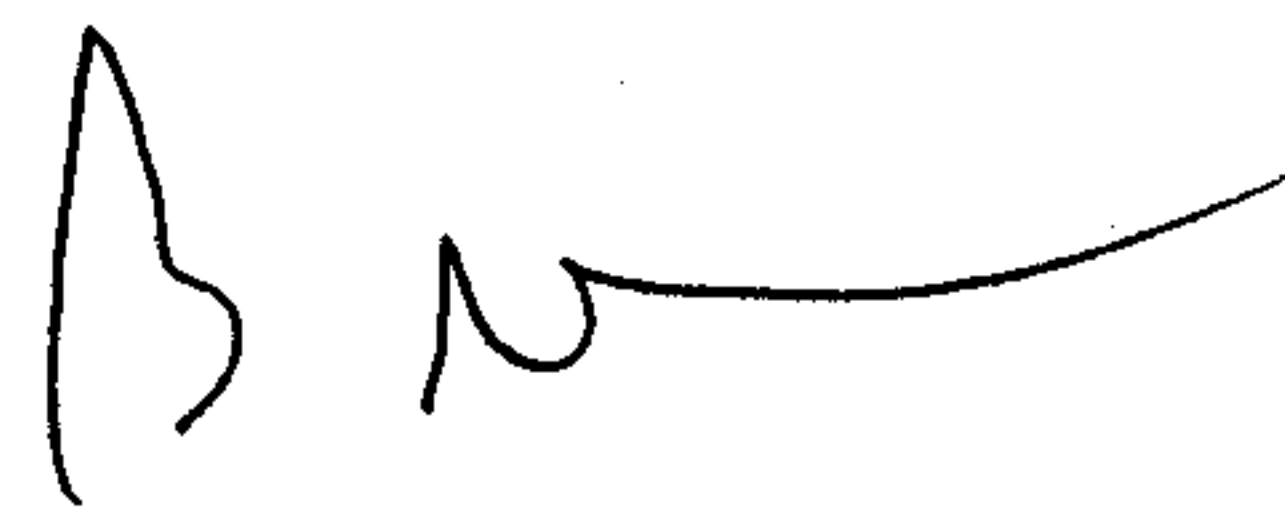
13. In the result, this petition is allowed. The Scheme, which is at Annexures "C" and "D" to the respective petitions, is hereby sanctioned. It is declared that it shall be binding on the petitioner companies, namely, MSK Projects (India) (JV) Limited and Madhav Infra Projects Limited their equity shareholders, creditors and all concerned and the petitioner transferor company shall stand dissolved without winding up.

14. The fees of the Official Liquidator are quantified at Rs. 10,000/-. The said fees to the Official Liquidator shall be paid by the Transferee Company.

15. The Transferee Company is hereby directed to preserve the books of accounts, papers and records of the Transferor Company and not to dispose of the same without prior permission of the Central Government as required under section 239 of the Companies Act, 2013.

16. The Transferee Company is also directed to ensure strict compliance of SEBI guidelines.

17. It is further directed that even after the Scheme is sanctioned, the Transferor Company shall comply with all the applicable provisions of law and shall not be absolved from any of its statutory liability.



18. It is ordered that the petitioner companies shall comply with Rule 17(2) of Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 with respect to filing of order, if any, for confirmation of the Scheme in form INC-28 with the Registrar of Companies having jurisdiction over the Petitioner Companies.

19. Filing and issuance of drawn up order is 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 authenticated copy of this order along with Scheme as well as the Schedule of Assets of the Transferor Company immediately.

20. These company petitions are disposed of accordingly.

Signature:.....
[Bikki Raveendra Babu, Member (J)]

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