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NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD

CA(CAA) No. 14/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 30.03.2017

Name of the Company: Persang Alloys Industries Pvt Ltd.

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


**S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE**

1. Aayog doshi Advocate for SP Majmudar Aayog
- 2.

**ORDER**

Learned Advocate Mr. Aayog Doshi i/b Sharvil Majmudar present for Applicant.

Order pronounced in open Court. Vide separate sheet.

  
BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL

Dated this the 30<sup>th</sup> day of March, 2017.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

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

**Date: 30<sup>th</sup> day of March, 2017**

**C.A.(CAA) 14/NCLT/AHM/2017**

In the matter of: -

M/s Persang Alloy Industries Private Limited,  
A company incorporated under  
the provisions of the Companies  
Act, 1956 and having its Registered  
Office at 353, GIDC Estate,  
Waghodia, Dist. Vadodara,  
Gujarat - 391760. ....

Applicant  
(Transferee Company)

**Appearance: -**

Mr. Ajay Y. Doshi, Advocate, for Mr. S. P. Majmudar, Advocate,  
for the Applicant.

**FINAL ORDER**

(Date: 30.03.2017)

1. M/s. Persang Alloy Industries Private Limited (hereinafter referred to as the "transferee company") has filed this application under Section 232 of the Companies Act, 2013.
2. The applicant-company is a Private Limited. The applicant-company is the holding company of M/s Eco Phil Metals Private Limited (hereinafter referred to as the "transferor company")
3. This Company Application is filed by the transferee-company seeking dispensation of meeting of equity shareholders of the applicant transferee-company with or without modification, a scheme of amalgamation ("Scheme" for short) of Eco Phil Metals Private Limited with the applicant transferee-company. The applicant-company is also seeking dispensation of meeting of

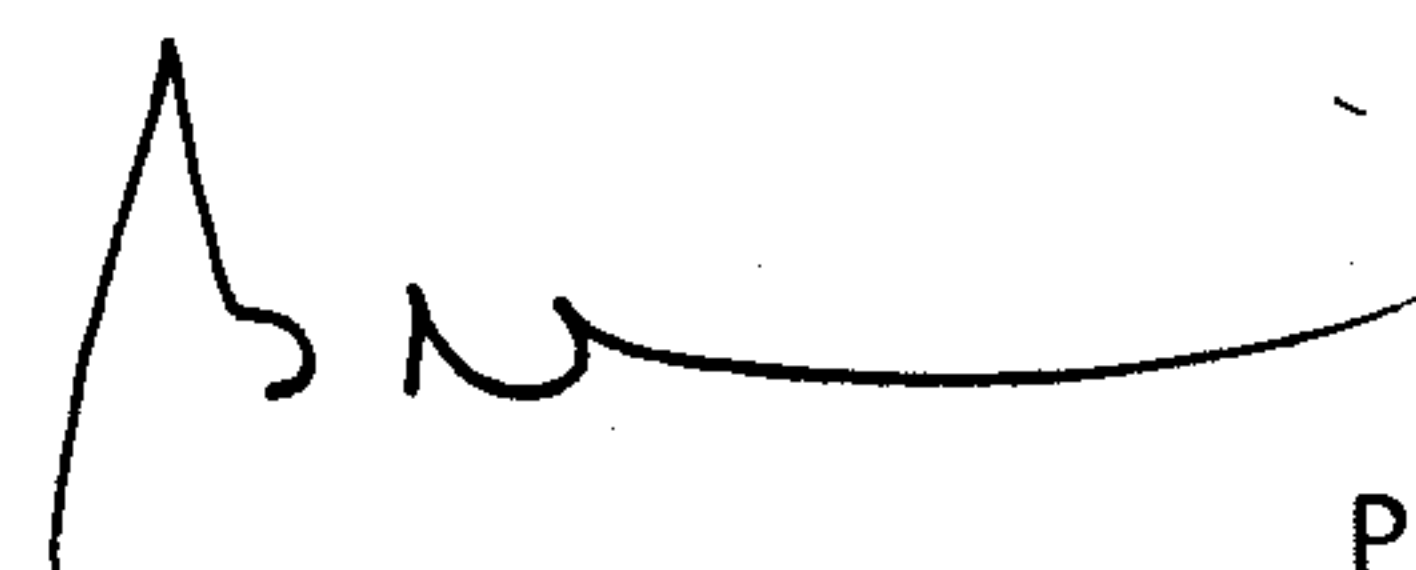


creditors, both secured and unsecured, in view of the consent given by all the creditors in writing.

4. The Board of Directors of the applicant-company passed a resolution on 3<sup>rd</sup> October, 2016 (Annexure "D") approving the Scheme (Annexure "A"). The issued, subscribed and paid-up share capital of the applicant-company is Rs.2,15,00,000/-. Chartered Accountants of the applicant-company gave a certificate (Annexure "F") stating that there are only five shareholders of the applicant-company and all of them gave their consent for dispensing with the meeting of equity shareholders of the company and that they have waived their right to receive notice of the General Meeting. Chartered Accountants of the applicant-company gave another certificate (Annexure "H") stating that the applicant-company has five secured creditors with an outstanding of Rs.12,74,44,645/- and ten unsecured creditors aggregating to Rs.10,23,48,516/- as on 30<sup>th</sup> November, 2016 and that all the creditors, both secured and unsecured, gave consent in writing for dispensing with the calling of meeting of the creditors for sanctioning of the proposed Scheme. It is also stated in the application that there are no investigation proceedings under Sections 210 to 229 of the Companies Act, 2013 pending against the applicant-company.

5. Heard learned Advocate, Mr. Aayog Y. Doshi, for Mr. S.P. Majmudar, Advocate for the applicant-company.

6. In CA(CAA) No.4 of 2017, this Tribunal held that the Tribunal has got discretionary power to dispense with the meeting of equity shareholders in family concerns and closely held companies wherein consent of the shareholders have been obtained. For coming to the aforesaid conclusion, this Tribunal relied on following decisions of various Honourable High Courts: -



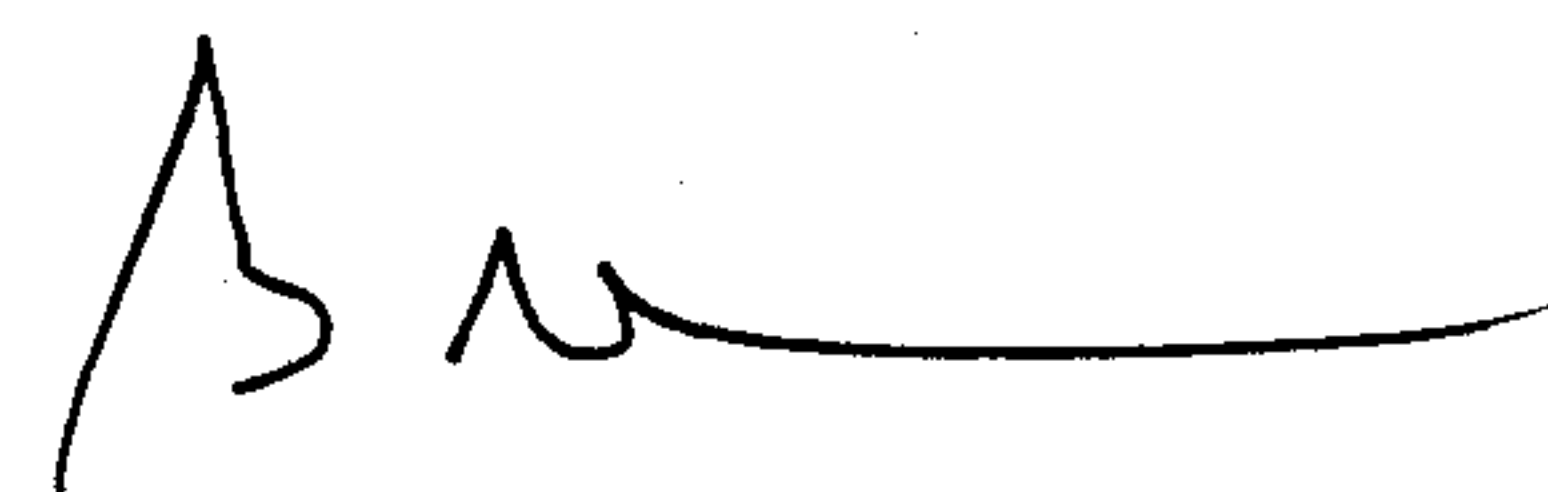


- (1) **Mazda Theatres Pvt. Ltd. and Anr. Vs. New Bank of India Ltd. and Ors.** reported in MANU/DE/0104/1974;
- (2) **Mysore Cements Ltd., in Re,** reported in [2009]149 Comp Cas 50 (Karn);
- (3) **Ansal Properties & Industries Ltd. and Anr. Vs. Company,** reported in MANU/DE/0118/1976; [1978]48 Comp Cas 184 (Delhi);
- (4) **Scheme of Amalgamation of GE Capital Transportation Financial Services Limited vs. GE Capital Services India,** reported in 2009 SCC online Del 535. (2009) 149 Comp Cas 52;
- (5) **In Re: Sharat Hardware Industries P. Ltd.** reported in MANU/DE/0262/1976; [1978] E Com Cas 23 (Delhi)

7. In the case on hand, there are only five equity shareholders and all of them have given consent for the Scheme. In this view of the matter, this Tribunal is of the view that meeting of equity shareholders of the applicant transferor-company deserves to be dispensed with.

8. Coming to the creditors, it is stated in the petition that the applicant-company has five secured creditors with an outstanding of Rs.12,74,44,645/- and ten unsecured creditors aggregating to Rs.10,23,48,516/- as on 30<sup>th</sup> November, 2016 and that all the creditors, both secured and unsecured, gave consent 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 the Chartered Accounts, which is produced at Annexure "H". This Tribunal, therefore, is inclined to dispense with meeting of creditors of the applicant-company by invoking sub-section (9) of Section 230 of the Companies Act, 2013.

9. In the result, this application stands disposed of as allowed with the following directions: -



- (1) Meeting of equity shareholders of the applicant-company for the purpose of considering the Scheme of Amalgamation is dispensed with.
- (2) Meeting of secured and unsecured creditors of the applicant-company for the purpose of considering the Scheme of Amalgamation is also dispensed with.
- (3) The applicant-company is 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; and (c) the concerned Income Tax authorities 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.
- (4) The applicant-company shall file petition for sanction of the Scheme of Amalgamation within three weeks from the date of this order.
- (5) The applicant-company shall give individual notices to the secured creditors and unsecured creditors before the hearing of the petition that would be filed for sanctioning of the Scheme.

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

Pronounced by me in open court on this  
30<sup>th</sup> day of March 2017.

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