NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.P.(CAA) No. 3/230-232/NCLT/AHM/2017
c.w. CA 513/2017

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 08.02.2017

Name of the Company: Sintex Industries Ltd.

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Sandeep Singhi	Advocate	Petitioner	
2.	Pranjal Buch	"	"	
	to Singhi & Co.			

ORDER

Learned Advocate Mr. Sandeep Singhi with Learned Advocate Mr. Pranjal Buch i/b Singhi & Co. present for the Petitioner.

This petition is filed by Sintex Industries Ltd. under sections 230 to 232 of the Companies Act, 2013 for approval of the proposed scheme of demerger of Custom Moulding Business being carried out by Sintex Industries and merging it to Sintex-BAPL and demerging Prefab business being carried out by Sintex industries and merging it with Sintex Infra Projects Ltd.

Sintex Plastics technology is a wholly owned subsidiary of Sintex Industries Ltd. Sintex Plastics Technology is the holding company of Sintex-BAPL Ltd. and Sintex Infra Projects Ltd respectively.

Petitioner company filed CA 513/2016 under section 391 to 394 of the Companies Act, 1956 before the Hon'ble High Court of Gujarat.

The Hon'ble High Court of Gujarat by its order dated 08.12.2016 made in CA 513/2016 ordered meetings of equity shareholders of the Petitioner company as well as meetings of secured creditors (including debenture holders) and unsecured creditors to be held on 17.01.2017

It is stated by the Learned Counsel for the petitioner that notices in pursuance of Sub-section 5 of Section 230 have already been sent to the Registrar of Companies, Regional Director, Official Liquidator, Income Tax Authorities, Reserve Bank of India, BSE, NSE and SEBI on 16.12.2016, i.e., soon after the notices of meetings were sent to the members and creditors.'

It is also stated that the representations of the Official Liquidator, Regional Director and Income Tax Department have been filed in this Tribunal and no other representation has been placed before me by the Registry in respect of this petition.

It is contended by the Learned Counsel for the Petitioner that it is a case of demerger and not a case of merger or amalgamation and therefore section 233 is not applicable. He further submitted that Sintex Industries Ltd., Sintex Plastic Technology Ltd., Sintex-BAPL Ltd. and Sintex Infra Projects Ltd. remain in existence even after the implementation of the scheme. He contended that in view of section 233(8), the scheme under sub-section (3) or sub-section (7) shall be deemed to have the effect of dissolution of the transferor company without the process of winding up and such course is not at all contemplated in the scheme contemplated and approved by the companies in this petition, and therefore section 233 is not applicable.

He contended that in view of section 233(14) also, the company has got an option to use the provisions of section 232 for approval of any scheme for merger or amalgamation. Moreover, the Hon'ble High Court disposed of the Company Application before the coming into force of sections 230-232 of the Companies Act, 2013 and in that view of the matter also, Petitioner cannot be asked to approach the Central Government under section 233 of the Companies Act, 2013.

In view of the above said submissions made by the Learned Counsel for petitioner, the petition is admitted.

The hearing on the petition seeking sanction of the scheme of arrangement between the petitioner company and Sintex Plastics Technology Ltd., Sintex-BAPL Ltd. and Sintex Infra Projects Ltd. shall take place before this Tribunal on 17.03.2017.

In the proceedings in CA 513 of 2016 before Hon'ble High Court of Gujarat, no notice was given to the regulatory authorities since section 391 of Companies Act, 1956 did not obligate such notice at the first stage.

In this petition, petitioner company even without an order from the Hon'ble High Court or from this Tribunal sent notices to the statutory authorities under section 230(5) of the Act. It appears that only three authorities stated above sent their representations. This Tribunal thought it fit to inform the date of hearing to those three authorities. In respect of the other authorities who have not responded so far, this Tribunal thought it fit to direct the petitioner company to comply with section 230(5), since the notices issued by the company under section 230(5) are not in compliance with the orders of the adjudicating authorities under the Act.

In view of the said facts it is ordered that: -

1. Notice of hearing of this petition shall be advertised in Indian Express English daily All India edition and Sandesh Gujarat daily Ahmedabad edition, not less than ten days before the date fixed for hearing calling for their objections if any on or before

(A) Central Government through Regional Director, Gujarat
(B) Income Tax Authority
(C) Official Liquidator

3. Notice to the following statutory authorities in form no. CAA 3 accompanied with the scheme of arrangement, copy of petition with its annexures, along with a copy of this order to-
   A. Registrar of Companies, Gujarat
   B. Reserve Bank of India
   C. Bombay Stock Exchange and National Stock Exchange
   D. Securities and Exchange Board of India

stating that if they desire to make any representations the same shall be sent to this Tribunal within 30 days from the date of receipt of notice and in case no representation is received by this Tribunal with in a period of 30 days, it shall be presumed that the above said authorities have no representation to make on the proposed scheme of arrangement.

List the matter on 17.03.2017 for hearing.

8/2/17

BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 8th day of February, 2017.