

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**C.P. No. 516/2016 in C.A. No. 501/2016 (Old)
T.P. No. 11/391-394/NCLT/AHM/2017 (New)**

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 21.03.2017**

Name of the Company: NCPL Infrastructure Pvt. Ltd.

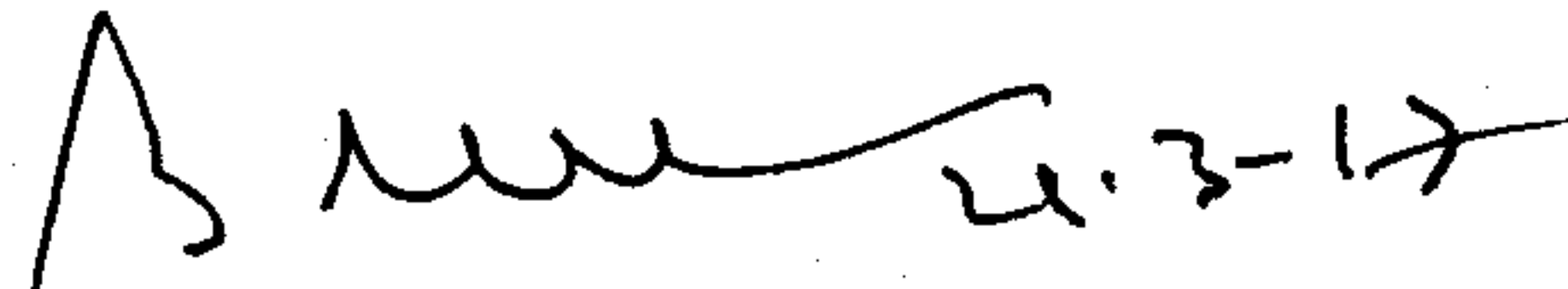
Section of the Companies Act: Sections 391-394 of the Companies Act, 1956

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

ORDER

Learned Advocate Mr. Sandeep Singhi with Learned Advocate Mr. Pranjal Buch present for petitioner.

Common order pronounced in open Court vide separate sheet.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 21th day of March, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

Date: 21st day of March, 2017

T.P. No.10/391-394/NCLT/AHM/2017 (New)

C.P. No.515 of 2016 (Old)

in

C.A. No. 500 of 2016 (Old)

With

T.P. No.11/391-394/NCLT/AHM/2017 (New)

C.P. No.516 of 2016 (Old)

in

C.A. No. 501 of 2016 (Old)

With

T.P. No.12/391-394/NCLT/AHM/2017 (New)

C.P. No.517 of 2016 (Old)

in

C.A. No. 502 of 2016 (Old)

With

T.P. No.13/391-394/NCLT/AHM/2017 (New)

C.P. No.518 of 2016 (Old)

in

C.A. No. 503 of 2016 (Old)

With

T.P. No.14/391-394/NCLT/AHM/2017 (New)

C.P. No.519 of 2016 (Old)

in

C.A. No. 504 of 2016 (Old)

With

T.P. No.15/391-394/NCLT/AHM/2017 (New)

C.P. No.520 of 2016 (Old)

in

C.A. No. 505 of 2016 (Old)

With
T.P. No.16/391-394/NCLT/AHM/2017 (New)
C.P. No.521 of 2016 (Old)
in
C.A. No. 506 of 2016 (Old)
With
T.P. No.17/391-394/NCLT/AHM/2017 (New)
C.P. No.522 of 2016 (Old)
in
C.A. No. 507 of 2016 (Old)

In the matter of :-

1. Nishant Construction Private Limited,
A company incorporated under the
Provisions of the Companies Act, 1956
and having its registered office at
801-802, Regency Plaza,
Anandnagar Cross Road,
Satellite,
Ahmedabad - 380 015. ... Petitioner of T.P. No.10/2017
(Transferor Company)
2. NCPL Infrastructure Private Limited,
A company incorporated under the
Provisions of the Companies Act, 1956
and having its registered office at
801-802, Regency Plaza,
Anandnagar Cross Road,
Satellite,
Ahmedabad - 380 015. ... Petitioner of T.P. No.11/2017
(Transferor Company)
3. NCPL Projects Private Limited,
A company incorporated under the
Provisions of the Companies Act, 1956
and having its registered office at
801-802, Regency Plaza,
Anandnagar Cross Road,
Satellite,
Ahmedabad - 380 015. ... Petitioner of T.P. No.12/2017
(Transferor Company)
4. NCPL Properties Private Limited,

A company incorporated under the Provisions of the Companies Act, 1956 and having its registered office at 801-802, Regency Plaza, Anandnagar Cross Road, Satellite, Ahmedabad - 380 015.

... Petitioner of T.P. No.13/2017
(Transferor Company)

5. Rajpriya Estate Developers Private Limited,

A company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 801-802, Regency Plaza, Anandnagar Cross Road, Satellite, Ahmedabad - 380 015.

... Petitioner of T.P. No.14/2017
(Transferor Company)

6. Reform Estate Developers Private Limited,

A company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 801-802, Regency Plaza, Anandnagar Cross Road, Satellite, Ahmedabad - 380 015.

... Petitioner of T.P. No.15/2017
(Transferor Company)

7. Shanchin Properties Private Limited,

A company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 801-802, Regency Plaza, Anandnagar Cross Road, Satellite, Ahmedabad - 380 015.

... Petitioner of T.P. No.16/2017
(Transferor Company)

8. Myin Properties Private Limited

A company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 801-802, Regency Plaza, Anandnagar Cross Road, Satellite, Ahmedabad - 380 015.

... Petitioner of T.P. No.17/2017
(Transferee Company)



Appearance:-

1. Mr. Sandeep Singhi and Mr. Pranjilal Buch, Advocates, for M/s Singhi & Co., Advocates, for the Petitioner-companies.
2. Ms. Bhoomi M. Thakore, Advocate, for the Official Liquidator, Gujarat High Court, in all the matters.

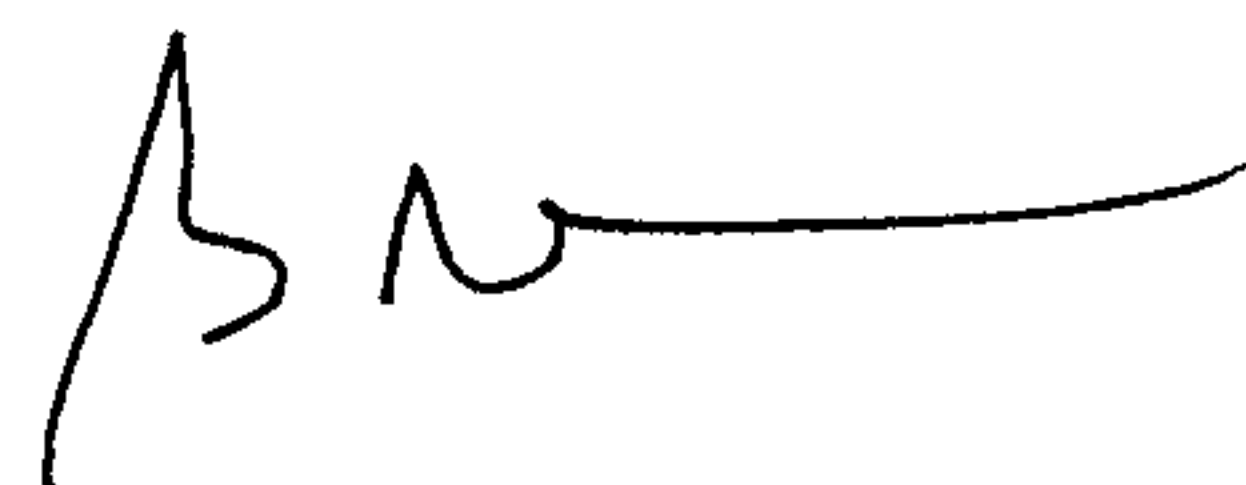
COMMON FINAL ORDER

(Date:21.03.2017)

1. Heard Mr. Sandeep Singhi with Mr. Pranjilal Buch, Advocates for M/s Singhi & Co., Advocates, for the petitioner-companies and Ms. Bhoomi M. Thakore, Advocate, appearing for the Official Liquidator.

2. These petitions have been filed by eight petitioner-companies for sanctioning of the scheme of amalgamation of Nishant Construction Private Limited and NCPL Infrastructure Private Limited and NCPL Projects Private Limited and NCPL Properties Private Limited and Rajpriya Estate Developers Private Limited and Reform Estate Developers Private Limited and Shanchin Properties Private Limited (Transferor Companies) with Myin Properties Private Limited (Transferee Company) ["Scheme" for short].

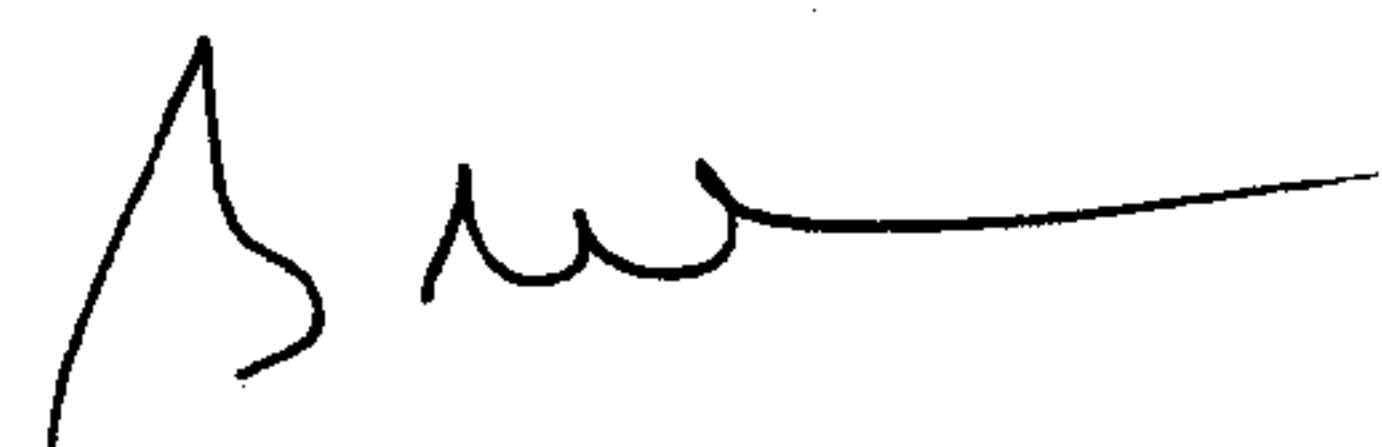
3. The petitioner of T. P. No.10 of 2017, i.e. Nishant Construction Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.500 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with



advertisement to be given in newspapers as also publication of notice in the Government Gazette.

4. The petitioner of T. P. No.11 of 2017, i.e. NCPL Infrastructure Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.501 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

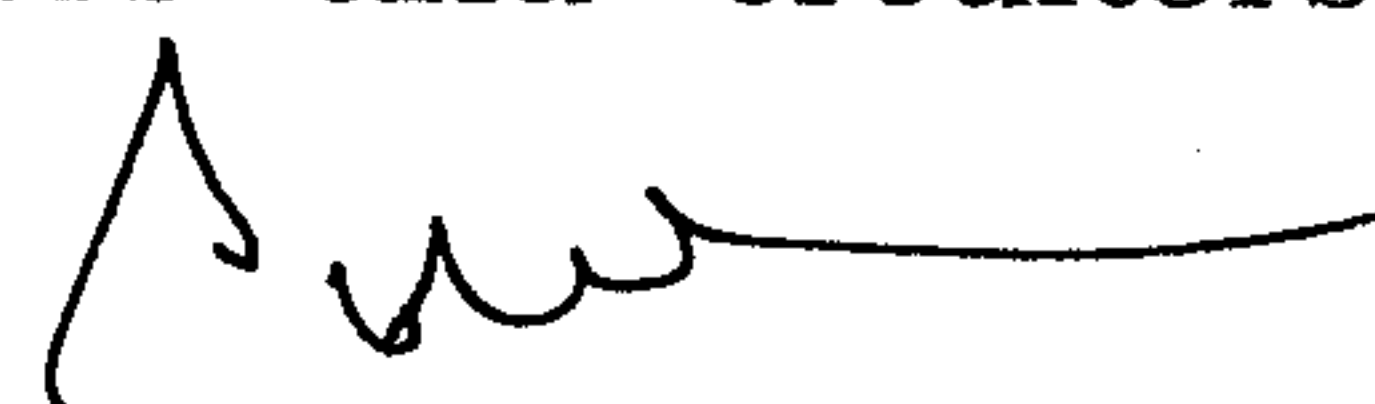
5. The petitioner of T. P. No.12 of 2017, i.e. NCPL Projects Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.502 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.



6. The petitioner of T. P. No.13 of 2017, i.e. NCPL Properties Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.503 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

7. The petitioner of T. P. No.14 of 2017, i.e. Rajpriya Estate Developers Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.504 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

8. The petitioner of T. P. No.15 of 2017, i.e. Reform Estate Developers Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.505 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said



company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

9. The petitioner of T. P. No.16 of 2017, i.e. Shanchin Properties Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.506 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

10. The petitioner of T. P. No.17 of 2017, i.e. Myin Properties Private Limited, had filed an application in the Honourable High Court of Gujarat, being Company Application No.507 of 2016, for dispensing with the convening and holding of the meetings of the equity shareholders and creditors of the said company. The Honourable High Court, vide its order dated 6th December, 2016, dispensed with the convening and holding of the meeting of equity shareholders of the petitioner-company in view of the consent affidavits to the Scheme given by the equity shareholders. The Honourable High Court, vide its aforesaid order dated 6th December, 2016, also



dispensed with the meetings of creditors of the petitioner-company. The Honourable High Court also dispensed with advertisement to be given in newspapers as also publication of notice in the Government Gazette.

11. The petitioners, thereafter, filed Company Petitions Nos. 515 to 522 of 2016 in the High Court of Gujarat seeking sanction of the Scheme. The Honourable High Court, by its orders, dated 14th December, 2016, admitted the aforesaid Company Petitions and directed the issuance of notice to the Regional Director in all the aforesaid Company Petitions and the Official Liquidator in Company Petitions Nos.515 to 521 of 2016. The High Court also directed publication of notice of hearing of the petitions in the English daily newspaper "Indian Express" and the Gujarati daily newspaper "Sandesh", both Ahmedabad editions. The High Court also dispensed with publication of notice in the Gujarat Government Gazette.

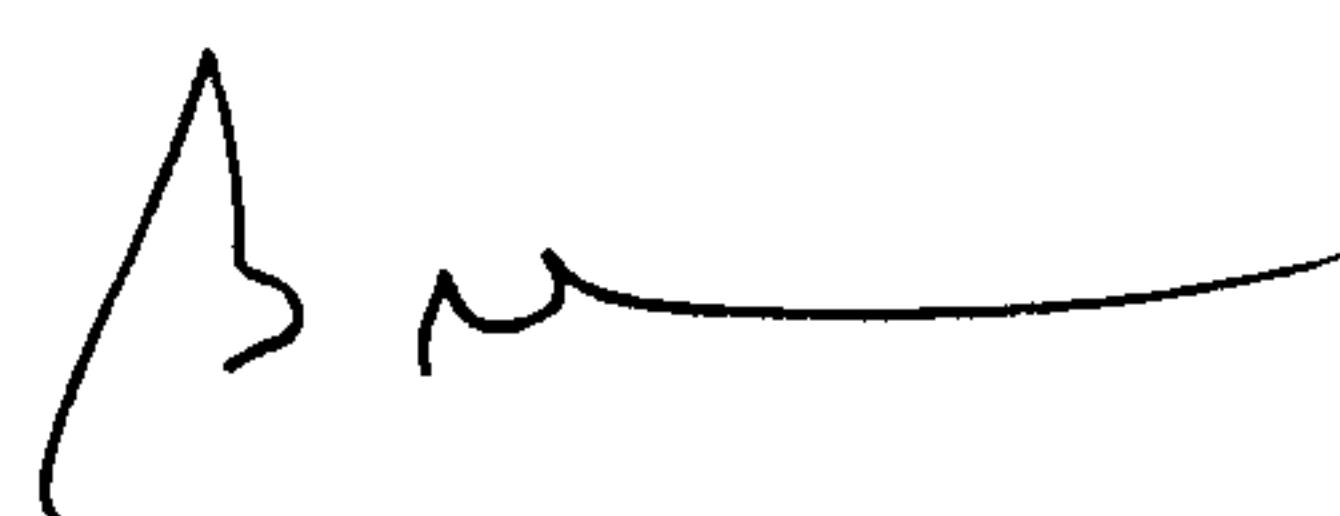
12. Pursuant to the order dated 14th December, 2016 passed by the Honourable High Court, the petitioners of Company Petitions Nos.515 to 522 of 2016 published the notice of hearing of the petitions in the English daily newspaper, "Indian Express", Ahmedabad edition and in Gujarati daily newspaper, "Sandesh", Ahmedabad edition on 24th December, 2016. The notices of hearing of the Company Petitions were served upon the Regional Director on 20th December, 2016 and the notices of hearing in respect of Company Petitions Nos.515 to 521 of 2016 were served upon the Official Liquidator on 20th December, 2016 and affidavits to that effect were also filed on behalf of the petitioner-companies.

13. Subsequently, the Honourable High Court, in view of Rule 3 of The Companies (Transfer of Pending Proceedings) Rules, 2016, vide orders dated 21st December, 2016, transferred the aforesaid Company Petitions to this Tribunal and they came to be renumbered as T.P. Nos.10 to 17 of 2017. Thereafter, this Tribunal vide orders

dated 24th January, 2017, directed the petitioner-companies in T.P. Nos.10 to 17 of 2017 to publish notice in the newspapers in which already publication had been made informing the date of hearing. The petitioner-companies were also directed to serve notice on the Regional Director and the Official Liquidator. Accordingly, the petitioner-companies published a common notice of hearing of T.P. Nos.10 to 17 of 2017 in English daily "Indian Express" and Gujarati daily "Sandesh", both Ahmedabad edition, on 1st February, 2017. Notices of hearing of the petitions were also served upon the Regional Director as also the Official Liquidator on 31st January, 2017. Affidavits of service, on behalf of the petitioner-companies, dated 2nd February, 2017 have been filed.

14. In response to the notice to the Regional Director, Ministry of Corporate Affairs, the Regional Director has filed a common representation dated 17th February, 2017. In paragraph 2(e) of the said common representation, it is mentioned by the Regional Director that the Tribunal be pleased to direct the petitioner transferee-company to comply with the relevant provisions of the Companies Act, name availability guidelines and to ensure the payment of applicable fees/charges for alteration of the name of the petitioner transferee-company as M/s Nishant Construction Private Limited, besides payment of stamp duty payable as per rules for transfer of assets to resulting companies on arrangement. It is also mentioned by the Regional Director in paragraph 2(f) of the said common affidavit that this Tribunal be pleased to direct the petitioner-companies to undertake compliance of provisions of the Income Tax Act and the Rules framed thereunder.

9. Learned Advocate, Mr. Sandeep Singhi, appearing for the petitioner-companies states that one of the petitioner-companies, namely, Myin Properties Private Limited, has filed the necessary affidavit-in-reply dated 23rd February, 2017 to the common representation dated 17th February, 2017, by the Regional Director.



10. In respect of the observations made by the Regional Director at paragraph 2(e), Mr. Singhi submits that the transferee-company, upon the Scheme being effective, shall file necessary forms with the Registrar of Companies, Gujarat, along with necessary fees, in compliance with the provisions of the Companies Act, 2013. In light of the aforesaid, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(e) of the common representation stand satisfied.

11. The Regional Director, in paragraph 2(f) of the common representation, stated that pursuant to the circular of the Ministry of Corporate Affairs bearing No.2 / 1/ 2014 dated 15.01.2014, he invited specific comments from the Income Tax Department giving 15 days' time to the Income Tax Department to state their objections, if any, for the proposed scheme. It is stated by the Regional Director in the said paragraph that no reply has been received by the Directorate from the Income Tax Department. The Regional Director, therefore, requested this Tribunal to direct the petitioner-companies to undertake compliance of provisions of the Income Tax Act and the Rules. In the reply, it is stated by the petitioner-transferee company that the scheme is in compliance with the provisions of Section 2(1B) of the Income Tax Act, 1961. In light of the above reply, this Tribunal is of the view that the observations of the Regional Director at paragraph 2(f) of the common representation stand satisfied.

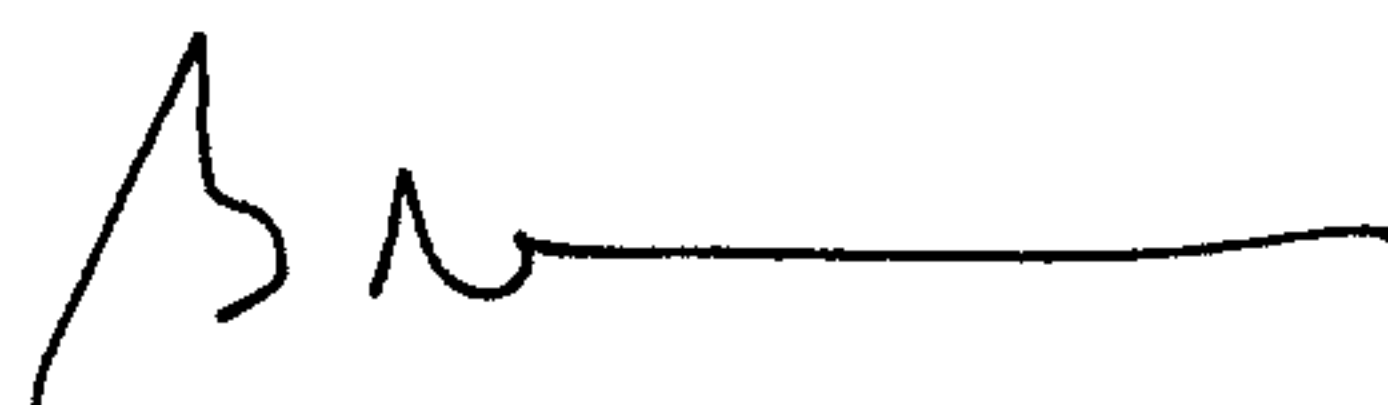
12. In response to the notice to the Official Liquidator in Company Petitions Nos.515 to 521 of 2016 (T.P. No. 10 to 16 of 2017), the Official Liquidator has filed his report dated 17th February, 2017. On perusal of the said report, the Official Liquidator, at paragraph 18, has submitted that the affairs of the transferor-companies have not been conducted in a manner prejudicial to the interest of their members or to the public interest. With regard to the observations made by the Official Liquidator at paragraph 20 of the report, the petitioner- transferor-companies have filed their reply affidavit dated 23rd February, 2017, ensuring compliance in respect of the same. In



respect of the observations made at paragraph 21 of the report, it is stated in paragraph 5 of the reply 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 their further affidavit dated 7th March, 2017, produced the original certificate of Statutory Auditor indicating the said aspect. With regard to the observations made at paragraph 22 of the report, it is stated in paragraph 6 of the reply affidavit that the Scheme nowhere proposes absolving the petitioner-company from any of its statutory liability. In response to paragraph 23 of the report of the Official Liquidator, it is stated that the petitioner-transferor companies shall pay cost of Rs.10,000/- each to the office of the Official Liquidator, as and when so directed by this Tribunal. No objections were received from any creditors questioning the proposed Scheme. Moreover, it is also stated in paragraph 3 of the further affidavit dated 7th March, 2017 that there are no foreign shareholders of the Transferor Companies and, therefore, the notice to the Reserve Bank of India under sub-section (5) of Section 230 of the Companies Act, 2013 is not required to be issued.

13. 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, 1956 are satisfied. The Scheme appears to be genuine and *bona fide* and in the interest of the shareholders and creditors.

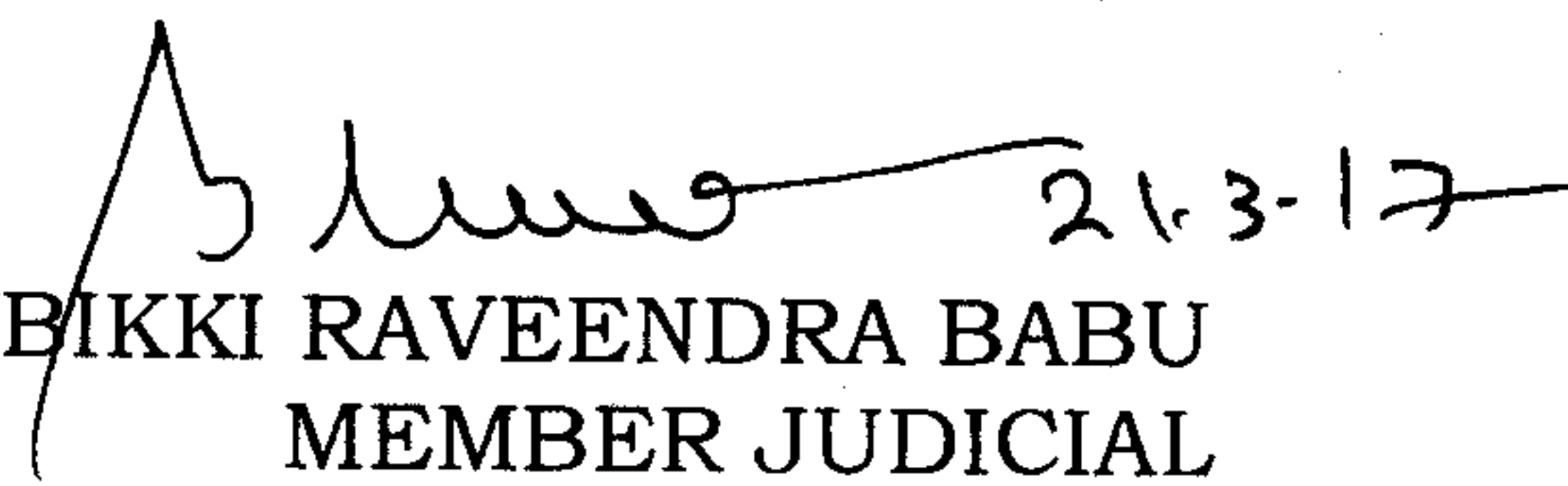
15. In the result, these petitions are allowed. The scheme of amalgamation, which is at Annexure-Q to T.P. No.10 of 2017 is hereby sanctioned and it is declared that the same shall be binding on the petitioner-companies, namely, Nishant Construction Private Limited, NCPL Infrastructure Private Limited, NCPL Projects Private Limited, NCPL Properties Private Limited, Rajpriya Estate Developers Private Limited, Reform Estate Developers Private Limited, Shanchin



Properties Private Limited and Myin Properties Private Limited, their equity shareholders, creditors and all concerned under the scheme. It is also declared that the petitioner-companies, namely, Nishant Construction Private Limited, NCPL Infrastructure Private Limited, NCPL Projects Private Limited, NCPL Properties Private Limited, Rajpriya Estate Developers Private Limited, Reform Estate Developers Private Limited and Shanchin Properties Private Limited shall stand dissolved without winding up.

16. The fees of the Official Liquidator are quantified at Rs.10,000/- each in respect of T.P. Nos.10 to 16 of 2017. The said fees to the Official Liquidator shall be paid by the Transferee Company.

17. 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.

 21.3.17
BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court on this
21st day of March, 2017.

gt