

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**COURT-VI**

Item No. 5  
CA(CAA)/40/ND/2024

**IN THE MATTER OF:**

**M/s. AG Smith Exports Pvt. Ltd**

**...APPLICANT**

**Section**

**U/s 230-232**

**Order delivered on 19.07.2024**  
**HYBRID HEARING (PHYSICAL & VC)**

**Coram:**

**SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

**For the Petitioner/Applicant:**

**For the RD :**

**For the OL :**

**For the IT Department :**

**ORDER**

1. In the present petition i.e., C.A(CAA) – 40/ND/2024, it has been averred by the applicant company that there are 43 Unsecured creditors for the Applicant company no. 2. However, subsequent to perusal of the documents placed on record, it has been observed that only 18 affidavits from the unsecured creditors have been placed on record. Further, the aforesaid applicant has not mentioned the percentage in terms of the vote share of the unsecured creditors whose affidavits have been placed on record, it has merely been stated that unsecured creditors holding more than 90% of the vote share have given their consent. Additionally, it has been stated by the said applicant company that all the unsecured creditors have issued their consent for the scheme of amalgamation.
2. Further with regards to Applicant Company no. 3. it has been averred by the applicant company that there are 42 Unsecured creditors. However, subsequent to perusal of the documents placed on record, it has been observed that only 19 affidavits from the unsecured creditors have been placed on record. Further, the aforesaid applicant has not mentioned the percentage in terms of the vote share of the unsecured creditors whose affidavits have been placed on record, it has merely

been stated that unsecured creditors holding more than 90% of the vote share have given their consent. Additionally, it has been stated by the said applicant company that all the unsecured creditors have issued their consent for the scheme of amalgamation.

3. In light of the aforesaid discrepancies in the petition, this Tribunal directs the applicants to file an affidavit which explicitly and coherently mentions the following details for all the applicants i.e., Transferor Company No 1, Transferor Company No. 2 and Transferee Company –
  - a. Number of Equity Shareholders, Secured Creditors and Unsecured Creditors.
  - b. Number of Affidavits placed on record by the Equity Shareholders, Secured Creditors and Unsecured Creditors (and the vote share held by them), concurring with the scheme of amalgamation.
4. Consequently, the applicants are directed to comply with the aforesaid directions within 7 days from the pronouncement of this order.
5. List the matter on **05.08.2024**.

**Sd/-**  
**(Rahul Bhatnagar)**  
**Member (T)**

**Sd/-**  
**(Mahendra Khandelwal)**  
**Member (J)**