

**In the National Company Law Tribunal,  
Bengaluru, Special Bench**

**C.A.(CAA)/23(BEN)2021**

**Court No. 1**

**Item No. 107**

Sub-section (l) of section 230

**In the matter of:**

SUKH SAGAR HOTELS PRIVATE LIMITED .....Petitioner

V/s

ANTRIX CORPORATION LTD. ....Respondent

**order delivered on ..22/04/2021**

**Coram:**

**ShriRAJESWARA RAO VITTANALA, Honble Member(J)**

**Shri ASHUTOSH CHANDRA, Honble Member(T)**

**For Petitioner(s):**

MR. SAJI.P. JOHN

**For Respondent(s):**

**Order**

CA (CAA) No. 23/BB/2021 is disposed of by separate order.

Sd/-  
Member(J)

Sd/-  
Member(T)

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

C.A. (CAA) No.23/BB/2021  
U/s 230 & 232 of the Companies Act, 2013  
& other application provisions of the Companies Act, 2013  
R/w Companies (CAA) Rules, 2016

**1. Sukh Sagar Hotels Private Limited,**

No.78, 5<sup>th</sup> Main  
Gandhinagar,  
Bengaluru – 560 009

... Applicant No.1 /Transferor Company

**2. RSP Gourmet Foods Private Ltd.,**

Shop No.1, 1<sup>st</sup> Floor,  
2<sup>nd</sup> Cross, Gandhinagar,  
Bengaluru – 560 009

... Applicant No.2/Transferee Company

**Date of Order: 22<sup>nd</sup> April, 2021**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant Companies : Shri Saji.P.John

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. C.A. (CAA) No.23/BB/2021 is filed by M/s. Sukh Sagar Hotels Private Limited (hereinafter referred to as 'Applicant Company No.1/Transferor Company') and RSP Gourmet Foods Private Limited (hereinafter referred to as 'Applicant Company No.2/Transferee Company') under Sections 230 & 232 of the Companies Act, 2013, by inter alia seeking to dispense with the meeting of Equity Shareholders and Secured Creditors of the

Applicant Companies and to direct to convene the meeting of Unsecured Creditors of the Applicant Company No.1 &2.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) **Sukh Sagar Hotels Private Limited** (hereinafter referred to as 'Applicant Company No.1/Transferor Company') was incorporated on 16.02.1995 under the provisions of the Companies Act, 1956 with CIN No. U55101KA1995PTC017121 having its registered office at No.78, 5<sup>th</sup> Main, Gandhi Nagar, Bengaluru – 560 009. Its authorised share capital is Rs. 5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each and Issue, subscribed and Paid-up capital is Rs. 4,49,16,450/- divided into 44,91,645 equity shares of Rs.10/- each fully paid up. The main objects of the Applicant No.1 inter alia is *to carry on all or any of the business of owners, lessees, managers, keepers, lessors and/or conductors of hotels, restaurants, cafes, tavern, beer-houses, refreshments and tea rooms , lodging houses, star hotels etc.*

(2) NSVM & Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there are 15 (fifteen) Equity Shareholders in the Transferor Company as on 31.03.2019, viz., Suresh Subba Poojari holding 9,95,140 Equity Shares, Siddharth Suresh Poojari holding 13,01,585, Bharat Suresh Poojari holding 12,12,820 equity shares and Babu S. Poojari holding 22,700 equity shares etc. Accordingly, Mr. Suresh S.Poojari, one of the Shareholders of the Applicant Company No.1 has filed an Affidavit dated 26.02.2021 by inter alia stating that he is an Equity Shareholder of the Applicant Company No.1 and given consent to the Scheme of Amalgamation and for dispensing with the meeting. Similarly,

- other 12 (Twelve) Equity Shareholders expect 2 (two) shareholders have also filed their respective affidavits with similar declaration, for the proposed Scheme of Amalgamation.
- (3) NSVM & Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there are 2 (two) Secured Creditors in Applicant Company No.1 as on 31.09.2019 viz., Bharat Co-operative Bank (Mumbai) Limited amounting to Rs.16,07,90,332/- and ICICI Bank amounting to Rs. 10,76,112/-. Accordingly, Mr. Ravindra Kunder, authorised signatory of Bharath Co-operative Bank (Mumbai) Limited has filed an affidavit dated 15.02.2021 *inter-alia* stating that the Bharath Co-operative Bank is a Secured Creditor of the Applicant Company No.1 having outstanding amount of Rs.16,07,90,332/- and has no objection to the above Scheme.
- (4) NSVM Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there are 99 (Ninety Nine) Unsecured Trade Creditors in the Applicant Company No.1 as on 31.03.2019 viz., Brigade Enterprises Limited due amounting to Rs.3,87,034/-, Sri Ganesh Equipment due amounting to Rs.4,07,710/-, Mall Maintenance Collection due amounting to Rs.2,83,689/-, etc. The Transferor Company seeks to convene the meeting of the Unsecured Trade Creditors for the proposed scheme of Amalgamation.
- (5) **'RSP Gourmet Foods Private Limited'** (hereinafter referred to as Applicant Company No.2/Transferee Company) was incorporated on 27.05.2011 under the provisions of Companies Act, 1956 bearing CIN: U55101KA2011PTC058842 and having its registered office situated at Shop No. 1, 1<sup>st</sup> Floor, 2<sup>nd</sup> Cross, Gandhinagar, Bengaluru- 560 009. Its

Authorised Share Capital is Rs.4,00,00,000/- divided into 40,00,000 Equity shares of Rs.10/- each and the Issued, Subscribed and Paid-up Share Capital is Rs.4,00,00,000/- divided into 40,00,000 Equity Shares of Rs.10/- each. The Transferee Company is *inter-alia* engaged in business to *purchase, establish, conduct, manage, takeover, acquire, lease, build, renovate, improve, furnish, maintain, promote, develop and to carry on the business of running hotels, resorts, restaurants, cafes, boarding and lodging houses etc.,*

- (6) NSVM & Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there are 3 (three) Equity Shareholders in Applicant Company No.2 as on 31.03.2019, viz., Mr. Siddharth Suresh Poojari holding 39,59,490 shares, Mr. Rohinton H Mottahed, holding 40,500 equity shares etc. Accordingly, Mr. Siddharth S.Poojari, has filed an Affidavit dated 26.02.2021 by inter alia stating that he is Equity Shareholder of the Transferee Company and has given consent to the Scheme of Amalgamation. Similarly, another Equity Shareholder except 1(one) has also filed his respective affidavit with similar declaration, for the proposed Scheme of Amalgamation.
- (7) NSVM & Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there is 01 (one) Secured Creditor in Transferee Company as on 31.03.2019 viz., Bharath Co-operative Bank (Mumbai) Limited due amounting to Rs.7,86,30,115/-. Accordingly, Mr. Ravinkra Kunder, authorised signatory of Bharat Co-Operative Bank (Mumbai) Limited has filed an affidavit dated 15.02.2021 *inter-alia* stating that Bharat Co-Operative Bank (Mumbai) Limited is a Secured Creditor of the Transferee Company having outstanding amount of Rs.7,86,30,115/- and has given no objection to the above Scheme.

- (8) NSVM & Associates, Chartered Accountants, have issued a Certificate dated 04.09.2020 by certifying that there are 53 (Fifty Three) Unsecured Trade Creditors in Transferee Company as on 31.03.2019 viz., HKS Services due amounting to Rs. 1,28,337/-, Rajeshwari Dairy due amounting to Rs.9,11,193/- etc. The Transferee Company seek to convene the meeting of the Unsecured Creditors for the proposed scheme of Amalgamation.
- (9) The Board of Directors of the Applicant Companies in its respective meetings held on 01<sup>st</sup> September 2020, have approved and adopted the Scheme of Amalgamation.
- (10) Further, NSVM & Associates, Chartered Accountants, the Statutory Auditors of the Applicant Company No.2/Transferee Company, has issued a Certificate dated 22.09.2020 by *inter alia* confirm that the accounting treatment proposed in Clause 12 of the scheme of arrangement of RSP Gourmet Foods Private Limited with Sukh Sagar Hotels Private Limited made pursuant to the provisions of Section 230 & 232 and other relevant provisions of the Companies Act, 2013 is in conformity with the accounting standard prescribed u/s 133 of the Companies Act, 2013.
- (11) The rationale for the Scheme *inter alia* would lead to greater and efficient use of infrastructure facilities and optimum utilisation of the available resources. Sukh Sagar is an established brand in the restaurants business and RSP is having very potential business plan and in the process of enlarging its business operations.
- (12) It is further stated that no investigations, proceedings are pending against the Applicant Companies under the Section 235 to 251 or any other provisions of the Companies Act, 1956 or Section 206 to 229 of the Companies Act, 2013.

3. Heard Shri Saji.P.John, learned Counsel for the Applicant Companies. We have carefully perused the pleadings of the party and extant provisions of the Companies Act, 2013 and the Rules made thereunder and the Law on the issue.
4. Shri Saji.P.John, learned Counsel for the Applicant Companies, while pointing out various averments made in the Company Application, has further submitted that the Scheme in question is made in the best interests of the Applicant Companies, and their respective Shareholders. He has pointed out that the Chartered Accountants, after verifying the records of the Company, have duly certified the existing Equity Shareholders, Secured and Unsecured Creditors of the Applicant Companies.
5. As stated supra, the Companies has followed extant provisions of Companies Act in framing the Scheme in question, which are duly approved by the Board of Directors of the Companies involved. The Statutory Auditors/Chartered Accountants of the Companies have also issued respective Certificates by inter-alia certifying the details of shareholders, creditors, and compliance of accounting treatment as prescribed U/s 133 of the Companies Act, 2013 with reference to the Scheme in question. The Applicant Companies have disclosed all the material facts relating to the Scheme in question and filed necessary documents along with the Application. Therefore, we are convinced with the case, made out by the Applicants so as to grant relief as sought for, by dispensing with the meeting of Equity Shareholders and Secured Creditors of the Applicant Companies and Convening the meeting of the Unsecured Creditors of the Applicant Companies by appointing the Chairperson and Scrutinizer for convening the meeting, fixing venue, time, quorum etc.

6. In the result, **C.A. (CAA) No.23/BB/2021** is disposed of with the following directions:

- (i) Convening and holding of the meetings of the Equity Shareholders of the Applicant Companies is hereby dispensed with;
- (ii) Convening and holding of the meetings of the Secured Creditors of the Applicant Companies is hereby dispensed with;
- (iii) The meeting of the Unsecured Creditors of the Transferor Company be convened and held on **28.05.2021** at 10:00 A.M, at the registered office of the Applicant Companies, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Amalgamation. **Mr. Rammurthy Karingula** (Mr.Rammurthy.K) Advocate, having address Flat No.404, Harihara Enclave 15<sup>th</sup> Cross, 1<sup>st</sup> Main, HR Layout, Sector 6, Bangalore Contact No. 9440412810/9030412810, email ID: [rmkaringula@gmail.com](mailto:rmkaringula@gmail.com) is appointed as Chairperson and **Shri Hari Babu Thota** CS, having address: No. 41/1, 2<sup>nd</sup> Floor, 11<sup>th</sup> Cross, 8<sup>th</sup> Main, 2<sup>nd</sup> Block, Jayanagar, Bengaluru – 560 011, Contact No: 9740237291, Email ID: [csharibabuthota@gmail.com](mailto:csharibabuthota@gmail.com) is appointed as Scrutinizer for the said meeting. The remuneration for Chairperson shall be Rs.75,000/- and for Scrutiniser shall be Rs.40,000/-. The Quorum for the said meeting is 30% of total value of Unsecured Creditors, either in person or through representative in view of the Act prescribed three-fourth of the Unsecured Creditors required for consideration of the Scheme later on. The Notice of the meeting of the Unsecured Creditors of the Transferor Company shall be published in

English Daily “The Hindu” and in Kannada Daily “Udayavani”.

- (iv) The meeting of the Unsecured Creditors of the Transferee Company be convened and held on **28.05.2021** at 11:00 A.M, at the registered office of the Applicant Companies, for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed Scheme of Amalgamation **Mr. Rammurthy Karingula** (Mr.Rammurthy.K) Advocate, having address Flat No.404, Harihara Enclave 15<sup>th</sup> Cross, 1<sup>st</sup> Main, HR Layout, Sector 6, Bangalore Contact No. 9440412810/9030412810, email ID: [rmkaringula@gmail.com](mailto:rmkaringula@gmail.com) is appointed as Chairperson and **Shri Hari Babu Thota** CS, having address: No. 41/1, 2<sup>nd</sup> Floor, 11<sup>th</sup> Cross, 8<sup>th</sup> Main, 2<sup>nd</sup> Block, Jayanagar, Bengaluru – 560 011, Contact No: 9740237291, Email ID: [csharibabuthota@gmail.com](mailto:csharibabuthota@gmail.com) is appointed as Scrutinizer for the said meeting. The remuneration for Chairperson shall be Rs.75,000/- and for Scrutiniser shall be Rs.40,000/-. The Quorum for the said meeting is 30% of total value of Unsecured Creditors, either in person or through representative in view of the Act prescribed three-fourth of the Unsecured Creditors required for consideration of the Scheme later on. The Notice of the meeting of the Unsecured Creditors of the Transferee Company shall be published in English Daily “The Hindu” and in Kannada Daily “Udayavani”.
- (v) The Applicant Companies and the Chairperson and Scrutiniser appointed in the case, are hereby directed to follow all extant provisions of the Companies Act, 2013 r/w Companies (Compromises, Arrangements and Arrangements) Rules, 2016 in convening above meetings.

- (vi) The Chairperson and Scrutinizer are directed to file their respective reports with Registry of this Tribunal, within two weeks from the date of conclusions of respective meeting, and thereafter, the Applicant Companies are hereby granted two weeks to file appropriate Company petition, in accordance with law, to seek sanction of the Scheme in question, subject to all statutory Compliances.
- (vii) Any person/Company/Institution aggrieved by this order, can approach this Tribunal by way of filing Interim Application(s) seeking appropriate directions.

**Sd/-**  
**ASHUTOSH CHANDRA**  
**MEMBER, TECHNICAL**

**Sd/-**  
**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**

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