

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI
CA No/150/CAA/2018**

Under section 230 to 232 of the Companies Act, 2013

In the matter of Scheme of Amalgamation
Between

M/s. A.R. Resorts India Private Limited
(CIN: U55101TN2001PTC085256)
(1st Transferor Company)

And

M/s. A.R. Builders and Developers Private Limited
(CIN: U70101TN2004PTC054748)
(2nd Transferor Company)

With

M/s. A. R. Foundations Private Limited
(CIN: U92490TN1984PTC010980)
(Transferee Company)

And

Their Respective Shareholders

Order delivered on: 18.09.2018

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioners: *Shri. T. K. Bhaskar, Advocate*

Shri. Vikram P Jain, Advocate

Mrs. Shruti Krishnan, Advocate

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

Under Consideration is a Joint Company Application No. CA/150/CAA/2018 filed under section 230 of the Companies Act, 2013 r/w the Companies (Compromises, Arrangements and Amalgamations) Rules 2016. The instant Company Applications in the matter of the Scheme of Amalgamation. The Applicant Companies, *M/s. A.R. Resorts*

India Private Limited (hereafter referred as “**Transferor Company-1**”) and *M/s. A.R. Builders and Developers Private Limited* (hereafter referred as “**Transferor Company-2**”) with *M/s. A. R. Foundations Private Limited* (hereafter referred as “**Transferee Company**”).

The Applicant/Transferor Companies-1, 2 and Transferee Company through this application has prayed for seeking directions for dispensing with the convening, holding and conducting of the meeting of the Equity shareholders and secured and unsecured Creditors.

1. M/s. A.R. Resorts India Private Limited (1st Transferor Company).

i) The 1st Transferor Company viz., M/s. A.R. Resorts India Private Limited, is a Private Limited Company, it was incorporated under the Companies Act, 1956. The 1st Transferor Company have 2 (Two) equity shareholders. The list of equity shareholders is placed at page no. 79 of the typed set, Vol-I filed with the Application. The consent affidavits given by 2 (Two) of the equity shareholders are placed at pages 81 to 84 of the typed set, Vol-I filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with convening, holding and conducting the meeting of Equity Shareholders. Since all the requirements under law have been fulfilled, the meetings of the equity shareholders of the 1st Transferor Company is allowed to be dispensed with.

ii) There is 1 (One) Secured Creditor in relation to the 1st Transferor Company and certificate issued by M/s. Venkatagiri & Co., Chartered

Accountants to this effect is placed at page no. 85 of the typed set filed with the Application. The secured creditor has given the consent affidavit which is placed at page 86 of the Typed Set, Vol-I filed with the Application. The value of the consenting secured creditor constitutes 100% of the total value of secured credit of Rs. 50,56,34,268/- as on 28.02.2018.

iii) There are 3 (Three) unsecured Creditors in relation to the 1st Transferor Company. The certificate issued by M/s. Venkatagiri & Co., Chartered Accountants is placed at page 88 of the Typed Set, Vol-I filed with the Application. The consent affidavits given 100% by all the unsecured Creditors are placed at pages 90 to 95 of the typed set, Vol-I filed with the Application. The value of the consenting unsecured creditors constitutes 100% of the total value of unsecured credit Rs. 67,28,59,340/- as on 28.02.2018. Therefore, the meetings of the Secured and unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013.


2. M/s. A.R. Builders and Developers Private Limited (2nd Transferor Company).

i) The Transferor Company-2 viz., M/s. A.R. Builders and Developers Private Limited is a Private Limited Company, it was incorporated under the Companies Act, 1956. The 2nd Transferor Company is Wholly Owned Subsidiary of the Transferee Company. The Transferor Company-2 have 3 (Three) equity shareholders. The list of equity shareholders is placed at

pages 172 of the typed set, Vol-I filed with the Application. The consent affidavits given by all the 3 (**Three**) equity shareholders are placed at pages 173 to 181 of the typed set filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with the convening, holding and conducting the meeting of equity shareholders. Since all the requirements under law have been fulfilled, the meeting of the equity shareholders of the Transferor Company-2 is allowed to be dispensed with.

- ii) There are no Secured Creditor in relation to the Transferor Company-2 and certificate issued by M/s. Venkatagiri & Co., Chartered Accountants to this effect is placed at page no. 182 of the typed set, Vol-I filed with the Application.
- iii) There are 15 (Eight) unsecured creditors in relation to the 2nd Transferee Company. The certificate issued by M/s. Venkatagiri & Co., Chartered Accountants to this effect is placed at page 183 of the typed set, Vol-I filed with the Application. The list of unsecured creditors are placed at pages 184 of the typed set, Vol-I filed with the Application. The consent affidavits given by 100% of the unsecured Creditors are placed at pages 185 to 187 of the typed set, Vol-II filed with the Application. The value of the consenting Unsecured Creditors constitutes 100% of the total amount of Rs. 3,94,82,793/- as on 28.02.2018. Therefore, the meetings of the Secured and unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013.

3. A. R. Foundations Private Limited (Transferee Company).

- i) The Transferee Company viz., M/s. A. R. Foundations Private Limited is a Private Limited Company, it was incorporated under the Companies Act, 1956. The Transferee Company having 2 (Two) equity shareholders. The list of equity shareholders is placed at pages 307 of the typed set, Vol-II filed with the Application. The consent affidavits given by all the 2 (Two) equity shareholders are placed at pages 308 to 311 of the typed set, Vol-II filed with the Application, wherein it has been deposed that they do support the Scheme and consent to dispense with the convening, holding and conducting the meeting of equity shareholders. Since all the requirements under law have been fulfilled, the meeting of the equity shareholders of the Transferee Company is allowed to be dispensed with.
- ii) There is 1 (One) Secured Creditor in relation to the Transferee Company and certificate issued by M/s. P. Senthamarai Kannan & Co., Chartered Accountants to this effect is placed at page no. 312 of the typed set, Vol-II filed with the Application. The secured creditor has given the consent affidavit which is placed at page 313 & 314 of the Typed Set, Vol-II filed with the Application. The value of the consenting secured creditor constitutes 100% of the total value of secured credit Rs. 58,23,96,142/- as on 28.02.2018. 

iii) There are 6 (Six) unsecured creditors in relation to the Transferee Company. The certificate issued by M/s. P. Senthamarai Kannan & Co., Chartered Accountants to this effect is placed at page 315 of the typed set, Vol-II filed with the Application. The list of unsecured creditors are placed at pages 316 of the typed set, Vol-II filed with the Application. The consent affidavits given by 100% of the unsecured Creditors are placed at pages 317 to 328 of the typed set, Vol-II filed with the Application. The value of the consenting Unsecured Creditors constitutes 100% of the total amount of Rs. 12,80,75,544/- as on 28.02.2018. Therefore, the meetings of the Secured and unsecured creditors is allowed to be dispensed with under clause (9) of the Section 230 of the Companies Act, 2013.

4. Looking to the prayers made in the application by the Transferor Companies- 1 & 2 and Transferee Company in relation to the Scheme of Amalgamation, this Bench hereby directs in term of under clause (5) of the section 230 and under sub-section (3) of the Companies Act, 2013 issuance of notices to the Regional Director, Ministry of Corporate Affairs, ROC concerned, Income Tax Authorities, Official Liquidator and such other sectorial regulators or authorities, if necessary. In case the scheme is exempted under the Competition Act, 2002, an affidavit to this effect is to be given. Otherwise, notice to CCI may also be issued. Since Transferor Company -1 & 2 and Transferee Company are Private Limited companies there is no need to issue notices to SEBI and to the Stock Exchanges. The authorities are directed to

make objections/representations, if any, within 30 days from the date of the receipt of notice. In case no objection/representation is received within the stipulated time it shall be deemed that they do not have any objections.

5. In respect of the Transferor Company- 1 & 2, the Registry is also directed to issue notice to the Official Liquidator, who in turn, may appoint a Chartered Accountant and submit a report with regard to the Transferor Company-1 & 2 within four weeks from the date of receipt of this order.
6. The Transferor Company-1 & 2 and Transferee Company are directed to make separate publication of notices in newspapers one in English and the other in vernacular language, preferably in **Business Line (English Edition)** and **Makkal Kural (Tamil Edition)** having wide circulation in the State of Tamil Nadu, not less than 30 days before the next date of hearing of the petition. The Applicant Companies are directed to place the notice on their website, if any, and also place the same on the notice board at the registered office of the company. The Applicant Companies are also directed to send private notice to the authorities by way of speed post and file the proof of sending and effecting service of notices along with the paper publication by way of an affidavit before the next date of hearing. The Registry is also directed to display the notice on the notice board of the NCLT, Chennai.
7. The petition to be presented on or before 30.10.2018.

S. Vijayaraghavan

S. Vijayaraghavan
Member (Technical)



K. Anantha Padmanabha Swamy
Member (Judicial)