

**In the National Company Law Tribunal
Kolkata Bench
Kolkata**

Before Shri Jinan K.R., Hon'ble Member (J)

CA (CAA) No. 765/KB/2018

In the matter of:

An application u/s. 230-232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

And

In the matter of:

SNK Businesses Private Limited and 22 others.

... .. **Applicants/Petitioners**

ORDER

Ld. Counsel mentioned the matter today and brought to my notice certain typographical errors in the Order pronounced on 29/08/2018. The typographical errors in the Order are to be corrected as follows and upon corrections the corrected order is to be uploaded itself.

(1) At page 5, paragraph 2 is to be recasted as follows:-

"2. The object of this petition is to ultimately obtain sanction of the Tribunal for dispensing with the meeting of equity shareholders and also the meeting of the unsecured creditors. The terms and conditions

of amalgamation between the transferor companies and the transferee company is fully stated in the Scheme of Amalgamation. A copy of the Scheme of Amalgamation is annexed with the application as Annexure A-47 pages 1270 to 1289."

(2) At page 8, paragraph (ii), under **O R D E R**, 1st line the word "**secured**" is to be inserted in between the word "no" and "creditors".

(3) At page 9, under **O R D E R** after the paragraph (ii) **a new paragraph (iii)** is to be inserted as follows and subsequent paragraphs under **O R D E R** are to be renumbered as **(iv), (v), (vi), (vii), (viii), (ix), (x), (xi) and (xii)**.

"(iii) Since the unsecured creditors of the applicants company have given their consent in the form of affidavit the meeting of unsecured creditors is hereby dispensed with."

(4) At page 9, renumbered para (iv) under **O R D E R**, 3rd line the date is to be read as "**11/10/2018**" instead of "17/09/2018".

(5) At page 10, renumbered para (viii) under **O R D E R** to be recasted as follows:

"That the quoram for meeting of the secured creditors of the applicant company nos. 10 and 23 be fixed in accordance with Section 103 of the Companies Act, 2013 present either in person or by proxy."

The above rectification of the order has been made in terms of power conferred upon the Tribunal under Rule 154 of the NCLT Rules, 2016.

Urgent certified copy of the order be issued to the parties, if applied for, subject to compliance with all requisite formalities.

Sd

(Jinán K.R.)
Member (J)

Signed on this, the 4th day of September, 2018.

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH, KOLKATA

CA (CAA) No.765/KB/2018

In the matter of:

An application under Sec.230 – 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

And

In the matter of:

SNK Businesses Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of:

Sugarh Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of:

Saffron Estates Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of:

Sheratove Plaza & Finvest Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of:

Seeyok Niwas & Nivesh Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of

Sd

Sparkle Niket Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Solorex Nirman & Credit Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 1, A.J.C. Bose Road, Kolkata - 700 020, West Bengal.

And

In the matter of

SNK Holdings Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 11, Government Place (East), Kolkata - 700 071, West Bengal.

And

In the matter of

Real Gold Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Classic Enclave Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Stellar Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Inter Craft Apparels & Exports Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Sd

Aabad Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Aapurti Enclave Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Abhilasha Niwash Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Airy Realtors Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Alike Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Alike Estates Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Anoop Buildmart Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

Sd

In the matter of

Vasha Estates Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Sunshine Nirman Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

SNK Properties Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of

Alankar Logistics Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at 7B, Pretoria Street, Kolkata - 700 071, West Bengal.

And

In the matter of:

- | | |
|----------------------------------------------------|--------------------------|
| 1. SNK Businesses Private Limited | : (Transferee Co.) |
| 2. Sugarh Properties Private Limited | : (Transferor Co. No.1) |
| 3. Saffron Estates Private Limited | : (Transferor Co. No.2) |
| 4. Sheratove Plaza & Finvest Private Limited | : (Transferor Co. No.3) |
| 5. Seeyok Niwas & Nivesh Private Limited | : (Transferor Co. No.4) |
| 6. Sparkle Niket Private Limited | : (Transferor Co. No.5) |
| 7. Solorex Nirman & Credit Private Limited | : (Transferor Co. No.6) |
| 8. SNK Holdings Private Limited | : (Transferor Co. No.7) |
| 9. Real Gold Properties Private Limited | : (Transferor Co. No.8) |
| 10. Classic Enclave Private Limited | : (Transferor Co. No.9) |
| 11. Stellar Properties Private Limited | : (Transferor Co. No.10) |
| 12. Inter Craft Apparels & Exports Private Limited | : (Transferor Co. No.11) |
| 13. Aabad Properties Private Limited | : (Transferor Co. No.12) |
| 14. Aapurti Enclave Private Limited | : (Transferor Co. No.13) |
| 15. Abhilasha Niwash Private Limited | : (Transferor Co. No.14) |
| 16. Airy Realtors Private Limited | : (Transferor Co. No.15) |
| 17. Alike Properties Private Limited | : (Transferor Co. No.16) |
| 18. Alike Estates Private Limited | : (Transferor Co. No.17) |
| 19. Anoop Buildmart Private Limited | : (Transferor Co. No.18) |
| 20. Vasha Estates Private Limited | : (Transferor Co. No.19) |
| 21. Sunshine Nirman Private Limited | : (Transferor Co. No.20) |

22. SNK Properties Private Limited : (Transferor Co. No.21)
23. Alankar Logistics Private Limited : (Transferor Co. No.22)

.....Applicant/Petitioners

Order Delivered on 6th September 2018

For the Applicant/Petitioners : Mr. Jnana Ranjan Dhal, Advocate

ORDER

Per Jinan K.R., Member (Judicial)

This petition has been filed for sanctioning of the proposed Scheme of Amalgamation of (1) Sugarh Properties Private Limited, (2) Saffron Estates Private Limited, (3) Sheratove Plaza & Finvest Private Limited, (4) Seeyok Niwas & Nivesh Private Limited, (5) Sparkle Niket Private Limited, (6) Solorex Nirman & Credit Private Limited, (7) SNK Holdings Private Limited, (8) Real Gold Properties Private Limited, (9) Classic Enclave Private Limited, (10) Stellar Properties Private Limited, (11) Inter Craft Apparels & Exports Private Limited, (12) Aabad Properties Private Limited, (13) Aapurti Enclave Private Limited, (14) Abhilasha Niwash Private Limited, (15) Airy Realtors Private Limited, (16) Alike Properties Private Limited, (17) Alike Estates Private Limited, (18) Anoop Buildmart Private Limited, (19) Vasha Estates Private Limited, (20) Sunshine Nirman Private Limited, (21) SNK Properties Private Limited and (22) Alankar Logistics Private Limited (hereinafter referred to as the Transferor Companies) with SNK Businesses Private Limited (hereinafter referred to as the Transferee Company).

2. The object of this petition is to ultimately obtain sanction of the Tribunal for dispensing with the meeting of equity shareholders and also the meeting of the unsecured creditors. The terms and conditions of amalgamation between the transferor companies and the transferee company is fully stated in the Scheme of Amalgamation. A copy of the Scheme of Amalgamation is annexed with the application as Annexure A-47 page 1270 to 1289.

3. The object of this application is to ultimately obtain sanction of this Tribunal to a Scheme of Amalgamation proposed to be made between the applicant companies and their respective shareholders whereby and whereunder:-

- i. All the applicant companies have common promoter and directors and are companies under the same management group. In view of the insignificant business operations of all the Transferor Companies, it is proposed to merge them with the Transferee Company.
- ii. The proposed scheme of amalgamation will conveniently merge and pool together the financial resources of the companies, leading to a more effective and centralised management and reduction of administrative expenses and overhead which are presently being multiplied because of separate entries. It will strengthen the position of the merged entity, by enabling it to harness and optimise the synergies of all the entities.
- iii. The proposed scheme will enable optimal utilisation of existing resources and provide an opportunity to fully leverage assets, capabilities, experience and infrastructure of the companies. It would also lead to growth prospects for the personnel and organisations concerned with these companies.
- iv. The business of all the companies will be carried on more economically and profitably under the Scheme.
- v. The scheme would be in the interest and welfare of the employees of the companies concerned and will also be in the largest interest of the stakeholders.

4. It is the case of the applicants that the Board of Directors of the applicant companies by a resolution at the meeting passed unanimously approved the

Scheme of Amalgamation. Copy of the Board resolution of the applicant companies are annexed with the application as Annexure A-48 page 1290 to 1358.

5. It reveals from the record that the aggregate assets of the applicant companies are more than sufficient to meet all their liabilities and the said Scheme will not adversely affect the rights of any of the creditors of any of the applicant companies in any manner whatsoever.

6. It further appears from the record that no proceedings are pending under Sec.235 to 251 of the Companies Act, 1956 or under Sec.210 to 226 of the Companies Act, 2013 against any of the applicant companies.

7. Ld. Counsel for the applicant companies submits that the Scheme does not attract the provisions Competition Commission of India and at present no scheme of corporate debt restructuring is pending.

8. It reveals from the record that the exchange ratio of shares of the Applicant Companies have been fixed on a fair and reasonable manner and on the basis of Valuation Report for exchange ratio of shares of the Transferor Companies and the Transferee Company prepared by the Chartered Accountant is annexed with the application as Annexure A-51 page 1429 to 1455.

9. Ld. Counsel for the applicant companies submitted that the statutory Auditors of the applicant companies have certified that the Accounting treatment proposed in terms of the Scheme is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act 2013. Copy of the certificate under Sec.230(7)(e) issued by the Chartered Accountant is annexed with the application as Annexure A-52 page 1456.

10. Ld. Counsel for the applicant companies submits that the applicant companies No.1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 have no secured creditors.

11. It reveals from the record, all the shareholders of the applicant companies and unsecured creditors of the applicant companies have agreed in writing to the proposed Scheme of Amalgamation. Copies of the list of shareholders of the applicant companies along with the consent of shareholders in the form of Affidavit issued by the Chartered Accountant are annexed with the application as Annexure A-53 page 1457 to 1985.

12. Ld. Counsel for the Applicants submitted that all the shareholders of the respective companies have given their consent for dispensing with the meetings of the equity shareholders as such prayed to dispense with the convening and holding of individual meetings of the shareholders and unsecured creditors of the applicants.

13. Heard Ld. Counsel for the applicants, perused the records, documents annexed to the application and affidavits filed in the instant proceedings. On perusal of the documents submitted by the petitioners, the following orders are passed:

ORDER

- i. Since the shareholders of all the applicants have given their consent in the form of affidavit, the meeting of the shareholders is hereby dispensed with.
- ii. In view of the fact that the applicant companies have no secured creditors except applicant companies No.10 and 23 and verified by the Auditor's Certificate, therefore question of holding meetings does

not arise, hence dispensed with except applicant companies No.10 and 23.

- iii. Since the unsecured creditors of the applicants company have given their consent in the form of affidavit, the meeting of unsecured creditors is hereby dispensed with.
- iv. That a meeting of secured creditors of the applicant companies No.10 and 23 shall be convened and held at 7B, Pretoria Street, Alam House, 2nd Floor, Kolkata - 700 071 on 11/10/2018 for the purpose of considering and if thought fit, approving, with or without modification.
- v. That at least 30 clear days before the date of the said meeting at the place and time as aforesaid together with a copy of the said Scheme, the statement disclosing necessary details required to be filed pursuant to Section 230 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 and the prescribed form of proxy be sent by Registered Post or by Speed Post or by hand and an advertisement convening the same and be inserted one each in 'Aajkal' in Bengali newspaper and in 'The Business Standard' in English newspaper.
- vi. Mr. Chittaranjan Das, Mob. No. 98305 41235 shall be the Chairperson for the said meeting of the secured creditors of the Applicant Company No.10 and 23 to be held as aforesaid. For

conducting the aforementioned meeting the consolidated remuneration is fixed at Rs.60,000/- (Rupees Sixty thousand only).

- vii. The chairperson appointed for the said meetings or any person authorised by him do issue and send out notice of the said meeting referred to above.
- viii. That the quorum for meeting of the secured creditors of the applicant company nos.10 and 23 be fixed in accordance with Section 103 of the Companies Act, 2013 present either in person or by proxy.
- ix. That the chairperson do report to this Tribunal the results of the said meeting within 4 (four) weeks from the date of the conclusion of the meeting and the report shall be in Form CAA 4 pursuant to Rule 13(2) and 14 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016, verified by his/her affidavit.
- x. The petitioner companies shall serve notice of the petition on the following authorities namely:
 - (a) Central Government through Regional Director, Eastern Region, Ministry of Corporate Affairs,
 - (b) Registrar of Companies, West Bengal,
 - (c) The Income Tax Department of the office having jurisdiction over the respective petitioner companies,
 - (d) The Official Liquidator and such other relevant and sectoral regulators/authorities, if applicable, which are likely to be affected by the proposed Scheme of Amalgamation by sending the same by hand delivery through special messenger or by registered post or

speed post within 7 days from the date of this order for filing their representations, if any, on the petition. Notice along with the copy of the application and other related documents with PAN Numbers of the Applicant Companies should be served upon the Chief Commissioner of Income Tax Department by e mail and Speed Post or by Messenger. Petitioner Companies are also directed to mention their respective PAN Numbers everywhere.

xi. The notice shall specify that representations, if any, should be filed before this Tribunal within 30 days of date of receipt of the notice with a copy of such representations being sent simultaneously to the petitioners and/or their Authorised Representatives. If no such representations are received by the Tribunal within the said period, it shall be presumed that such authorities have no representations to make on the Scheme of Amalgamation.

(xii) All Petitioner Companies at least 7 days before the date of hearing of the petition shall file affidavit of service of notices on the Authorities specified above including the Sectoral Regulators.

14. The CA (CAA) No.765/KB/2018 is disposed of accordingly.

15. There shall be no orders as to costs.

16. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Sd
27/9/18
Jinan K.R.
Member (J)

Signed on 9th September 2018