

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL BENCH
NEW DELHI**

Company Application (M) No. 137/2016

**Present: CHIEF JUSTICE (Retd.) SHRI M.M.KUMAR, HON'BLE PRESIDENT
& SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)**

In the matter of:

Sections 230-232 and other applicable provisions of the Companies Act, 2013 read with Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.

AND

**IN THE MATTER OF SCHEME OF AMALGAMATION
OF**

**Milap News Corporation Private Limited
(TRANSFEROR COMPANY/APPLICANT COMPANY NO.1)**

AND

**MJP Media Private Limited
(TRANSFEROR COMPANY/APPLICANT COMPANY NO.2)**

WITH

**Good Morning India Media Private Limited
(TRANSFeree COMPANY/APPLICANT COMPANY NO.3)**



WITH

Their respective Shareholders and Creditors

MEMO OF PARTIES

1. MILAP NEWS CORPORATION PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

B-116, Ground Floor,

Okhala industrial Area Ph-1,

New Delhi-110 020

Through its authorized representative and Director: Mr. Mohd. Suhail

CIN NO: U22121DL2006PTC15810

.....Applicant Company No.1 / Transferor

Company

2. MJP MEDIA PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

6 (IInd floor) Eastern Avenue,

Maharani Bagh,

New Delhi-110 065

Through its authorized representative and Director: Mr. Kamal Shah

CIN NO: U22300DL2008PTC175728



.....Applicant Company No.2 /Transferor

Company

3. GOOD MORNING INDIA MEDIA PRIVATE LIMITED

Company registered under the Companies Act, 1956

Having Registered Office at:

B-116, Ground Floor,

Okhala industrial Area Ph-1,

New Delhi-110 020

Through its authorized representative and Director: Mr. Rakesh Sharma

CIN NO: U22211DL2006PTC156450

....Applicant Company No.3/Transferee

Company

Counsel for the Applicants: Mr.Sidharth Bamba, Advocate ,

Mr. P. Nagesh,Advocate



ORDER

1) This is an application jointly filed by the applicant companies herein, namely Milap News Private Limited (for brevity "Transferor Company/Applicant Company No.1"), MJP Media Private Limited (for brevity "Transferor Company/Applicant Company No.2") and Good Morning India Private Limited (for brevity "Transferee Company/Applicant Company No.3") under Section 230 to 232 and other applicable provisions of the Companies Act, 2013(for brevity 'The Act') read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016(for brevity 'The Rules') in relation to the Scheme of Amalgamation (hereinafter referred to as the "SCHEME") proposed between the applicants and the said Scheme is also annexed as Annexure "A3/10" to the application. The applicants have preferred the instant joint application for the following purpose as is evident from the reliefs sought for in Paragraph XXIV of the Application, namely:-

- i. That the requirement for convening and holding of the meeting of the creditors and shareholders of both the Transferor and Transferee companies be dispensed with.

- ii. Further order(s) which this Hon'ble Tribunal may deem fit, proper and just under the circumstances of the case.

2) An Affidavit in support of the above joint application has been sworn in for Transferor Company/Applicant Company No.1 by one Mr. Mohd Suhail, for Transferor Company/ Applicant Company No.2 by one Mr. Kamal Shah, and for Transferee Company/ Applicant Company No.3 by one Mr. Rakesh Sharma, all

being the Directors of the respective Companies. The affidavits have been placed on record along with the application. Counsel for the joint applicants took us through the averments made in the application as well as the typed set of documents annexed there with.

- 3) Learned Counsel for the applicants represents that the 'Scheme does' not contemplate any corporate debt restructuring exercise as contemplated under Section 230(2) of the Act. It is further represented that a joint application as filed by the applicants are maintainable in view of Rule 3(2) of the 'Rules' and it is also represented that the registered office of all the applicant companies are situated within the territorial jurisdiction of this Tribunal and falling within the domain of Registrar of Companies, NCT, New Delhi. In relation to Milap News Corporation Private Limited being the Transferor Company/ Applicant Company No.1 in the Scheme marked as Annexure – "A3/10", Learned Counsel represents that the Transferor Company/ Applicant Company No.1 is the wholly owned Subsidiary of the Transferee Company, having four Equity Shareholders as on 31.03.2016 from whom "No Objection Certificates" have been received and are placed on record. It is further represented by the counsel for Applicants that the Applicant No. 1/ Transferor Company has no Secured and Unsecured Creditors. In relation to the Equity shareholders, the Applicant Company No. 1 / Transferor Company seeks dispensing with convening and holding of the meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent being obtained from all the equity shareholders and there being no Unsecured and Secured Creditor.

- 4) In relation to the MJP Media Private Limited being the Transferor Company/ Applicant Company No.2 in the Scheme marked as Annexure-"A3/10", Learned Counsel represents that company is having two Equity Shareholders as on

31.03.2016 and is also subsidiary of the transferee company. It is further represented that it has no secured Creditors and is having 38 unsecured creditors to whom it owes a sum of Rs.15, 66, 15,297/as on 31.12.2015. In relation to equity shareholders since consent from all of them have been obtained for the proposed Scheme, prayer has been made to dispense with convening and holding of meeting, while in relation to Unsecured Creditors, out of thirty eight unsecured creditors twenty nine have given their consent. In relation to the unsecured creditors, the Applicant Company No. 2/ Transferor Company seeks dispensing with holding and convening of meeting for the purpose of obtaining their approval to the proposed Scheme of Amalgamation in view of consent having been obtained from unsecured creditors representing more than 75% in value.

- 5) In relation to the Applicant Company No.3 / Transferee Company is concerned, learned counsel for the applicants represent that the company is incorporated as a private limited company. It has six equity shareholders as on 31st March, 2016 out of which five shareholders have given their "No Objection Certificates". It is further represented that Applicant Company No.3 / Transferee Company is having no secured creditors and thirty seven unsecured creditors out of which twenty five have given their no objection to whom it owes a sum of Rs.13,97,27,721.34 as on 31.12.2015. In relation to equity shareholders Applicant No.3/Transferee Company is seeking directions for convening and holding of the respective meetings for seeking their approval to the proposed Scheme while in relation to Unsecured Creditors are concerned, the Applicant Company No. 3/ Transferee Company seeks dispensing with holding and convening of meeting for the purpose of obtaining their approval to the





proposed Scheme of Amalgamation in view of consent having been obtained from unsecured creditors representing more than 75% in value.

- 6) Learned Counsel for the Applicants also represents that the provisions of Section 233 of the Act will not apply. The above joint application was filed before the Hon'ble High Court of Delhi and was subsequently transferred to this Tribunal, as is evident from the order dated 23.01.2017 passed by Hon'ble High Court of Delhi, in the light of the notification of the provisions for Sections 230 to 232 of the 'Act', as well as the 'Rules' this Tribunal therefore proceeds to entertain the above joint application. Further, the registered office of all the applicants is situated New Delhi and subject to the jurisdiction of Registrar of Companies, NCT of Delhi and Haryana and hence amenable to the territorial jurisdiction of this Tribunal.
- 7) We have perused the joint application and the connected documents / papers filed therewith including the Scheme of Amalgamation contemplated between the Applicant companies.
- 8) From the certificate of incorporation filed, it is evident that the Transferor Company / Applicant Company No.1 was initially incorporated under the name and style of Milap News Corporation Private Limited on 16th Oct, 2006.
- 9) The authorized capital of the Transferor company/ Applicant Company No.1, as on 31.12.2015 is Rs. 5,00, 00, 000/- divided into 50, 00, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.5, 08,000/- divided into 50,800 equity shares of Rs. 10/- each.
- 10) The main objects of the Transferor Company/ Applicant Company No.1 as stated in the application are:
 - To publish News Papers/Magazines, journals, periodicals, brochures, souvenirs relating to, News of, National, International and Regional level,

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current affairs, sports entertainment etc. on daily, weekly, fortnightly and/or monthly basis in any language recognized in India.

- To start News & Entertainment TV Satellite Channels and set up necessary infrastructure and technology for making, producing, editing distributing and telecasting the various programs, whether live or recorded.
- To collect and distribute News of any type and get advertisements from corporate as well as non-corporate houses, to acquire T.V./News Paper/Magazine & sponsorship rights for different programs and further distribute these rights.
- To establish Printing Press, film studios, audio recording studios, film processing labs, to produce, direct feature films, video, audio albums, telefilms, T.V. serials, documentary films, Ad films and to give their distribution rights, to sponsor film, infotainment and games and sports related activities and to acquire their distribution rights in India and Abroad.

11) From the certificate of incorporation filed, it is evident that the Transferor Company / Applicant Company No.2 was initially incorporated under the name and style of MJP Media Private Limited on 20th March, 2008, It is a subsidiary of transferee company/ Applicant no.3, in which applicant no. 3 has 97.33% of shareholding.

12) The authorized capital of the Transferor company/ Applicant Company No.2 as on 31.12.2015 is Rs. 70, 00, 000/- divided into 5, 00, 000 equity shares of Rs. 10/- each and 2, 00,000 Non-Cumulative Convertible Redeemable Preferential Share of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.2, 250, 000/- divided into 60000 shares of Rs. 10/- each and 165000 Preference Shares of Rs. 10/-each.

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13) The main objects of the Transferor Company/ Applicant Company No.2 as stated in the application are:

- To carry on the business of writing, Printing and Publishing of Magazines, Newspapers, Books, Journals, Periodicals, Literary Works, Reviews, Pictorials, Annuals, Supplements, Biographies, Autobiographies, Pictures, Circulars, Encyclopedias, Publications, Photo-lithographers, engravers, draftsman, designers, advertisement agents, book sellers, project reports and studies, writing articles, columns, stories, reviews and forewords for Books, Newspapers, Magazines, Journals, Periodicals Literary Works, Pictorials, Annuals, Supplements, Biographies, Autobiographies, Encyclopedia, Publications.
- To carry on the business of developing the media for Magazines, Newspapers, Journals, Audio visuals, Advertise, Publish, Broadcast, Print, Franchisee the mass media, purchase, hire, sell/lease media services and its allied activities in India and export the same to other countries.
- To carry on the business of providing consultancy services for any type of media in information, mass communications, public policy end media services, providing analysis to individuals or groups, arranging, participating and producing programs in electronic media and any other.
- To conduct lectures, seminars, orientation courses/programs, education programs, research studies, analysis (including psychoanalysis), to arranges for imparting education and/or training to Journalists, Editors, Reporters, Artists, Writers and the general public to get published or caused to be published of material relating to such seminars, orientation courses/programs, audio visual aids, tapes, correspondence, research studies and/or imparting such education and training and sale thereof.

14) The Transferee Company / Applicant No. 3 seem to have been incorporated as a private limited company on 12rd December, 2006, under the Companies Act, 1956 with the Registrar of Companies, NCT of Delhi. The following are the main objects to be pursued by the Transferee Company/ Applicant Company No.3are as under:

- To carry on the business of printing, publishing, and circulating or otherwise dealing in any daily, weekly, fortnightly and/or monthly newspaper or newspapers, magazines, periodicals, journals or other publications.
- To carry on the business of information and content distribution and collection, publication and distribution of news and views through electronic and/or print media.
- To produce, commission, production to produce or order, buy, sell import, export, distribute, broad cast and/or otherwise deal in all kinds of advertisement, films, game shows, sports events, health shows, news and current affairs shows, discussions on current affairs of all the natures and market the same in India and abroad by telecasting them through satellite/cable/DTH/TV Channels Internet.
- To provide live coverage of events through use of electronic media.
- To start, acquire, print and to generally carry on the business of owners of newspapers, magazines, TV channels as aforesaid and to do all other things which are necessary, incidental, ancillary or otherwise conducive to the attainment of the all the above mentioned objects.

15) The authorized share capital of the Applicant Company No.3/ Transferee company is Rs. 27, 00, 00,000/- divided into 2, 70, 00,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid-up capital is Rs.26, 7200, 000/- divided into 2, 67, 20,000 equity shares of Rs. 10/- each.

16) All the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2015.

17) A copy of the Scheme of Amalgamation as stated supra as Annexure – A3/10 has been placed on record and the salient features of the Scheme have been brought about by the applicants in the application amongst others which is stated to be that of consolidation of the businesses presently being carried on by the Transferor and Transferee Companies thereby benefitting all the stakeholders and creating better synergies and optimal utilization of resources. The amalgamation will enable the transferee company to consolidate its business operations, and provide impetus to the growth of the Transferee Company. It is further claimed that by effecting the Scheme better administration and cost reduction and significant growth potential can be achieved. The appointed date as specified in the Scheme is 31.12.2015 subject to the directions of this Tribunal.

18) The Board of Directors of the Transferor companies and the Transferee company vide separate meetings held on 31st December, 2015 have unanimously approved the proposed Scheme of Amalgamation and copies of resolutions passed thereat, have been placed on record by the companies

19) All the companies have submitted that no investigation proceedings are pending against them either under Sections 235 to 251 of the Companies Act, 1956 or under Sections 210 to 226 of the Companies Act, 2013. Further, the applicants have also submitted that the Scheme is not otherwise opposed to Public Policy or interests of the members of the respective applicant companies.

20) Taking into consideration the application filed jointly by the Transferor companies and the Transferee company and the documents filed therewith, we propose to issue the following directions with respect to calling, convening and

holding of the meetings of the shareholders, secured and Unsecured Creditors or dispensing with the same as well as issue of notices including by way of paper publication as follows:-

A) In relation to the Transferor Company/ Applicant Company No.1:

(i) With respect to Equity shareholders:

Meeting of the Equity Shareholders of the transferor Company/ Applicant Company No.1 is dispensed with as consent letters have been received from all the equity shareholders of Transferor Company No. 1/ Applicant Company No.1 and are placed on record.

(ii) With respect to Secured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Secured Creditor in the Transferor Company/ Applicant Company No.1.

(iii) With respect to Unsecured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Unsecured Creditor in the Transferor Company/ Applicant Company No.1.

B) In relation to Transferor Company/ Applicant Company No.2:

(i) With respect to Equity shareholders:

Meeting of the Equity Shareholders of the transferor Company/ Applicant Company No.2 is dispensed with as consent letters received from both the

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equity shareholders of Transferor Company No. 2/ Applicant Company No.2 are placed on record.

(ii) With respect to Secured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Secured Creditor in the Transferor Company/ Applicant Company No.2.

(iii) With respect to Unsecured Creditors:

Meeting of the Unsecured Creditors of the transferor Company/ Applicant Company No.2 is dispensed with as consent letters received from some of the Unsecured Creditors which owes more than 75% of total debt amount recoverable from Transferor Company No. 2/ Applicant Company No.2, are placed on record.

C) In relation to Transferee Company/ Applicant Company No.3:

(i) With respect to Equity shareholders:

Meeting of members of the Transferee Company/ Applicant Company No.3, be held at JW Marriot, Aerocity, New Delhi-110037, on 28.04.2017, subject to the notice of meeting being issued. The quorum for the Equity Shareholders Meeting shall be 2 in number.

(ii) With respect to Secured Creditors:

Necessity for convening the meeting of Secured Creditors does not arise as there is no Secured Creditor in the Transferee Company/ Applicant Company No.3.

(iii) With respect to Unsecured Creditors:

Meeting of the Unsecured Creditors of the transferee Company/ Applicant Company No.3 is dispensed with due to consent letters received from some of the Unsecured Creditors which owes more than 75% of total debt amount recoverable from Transferee Company /Applicant Company No.3, are placed on record.

D) In case the quorum as noted above for the above meetings of the Applicant Companies are not present, then the meetings shall be adjourned for half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form, duly signed by the person entitled to attend and vote at the meeting, is filed with the registered office of the applicant companies at least 48 hours before the meetings. The Chairperson and Alternate Chairperson appointed herein along with Scrutinizer shall ensure that the proxy registers are properly maintained.

E) Sh. Ritesh Aggarwal Adv. (Mobile: 9999972564) is appointed as the Chairperson and Sh. Abhilaksh Grover Adv. (Mobile: 8968575860) is appointed as the Alternate Chairperson for the meeting of Equity Shareholders, as has been directed to be convened by this Tribunal in respect of the Applicant Companies.

F) The fee of the Chairperson for the aforesaid meetings shall be Rs. One Lakh and the fee of the Alternate Chairperson shall be Rs.50, 000/- in addition to meeting their incidental expenses. Rashmi Gupta, Company Secretary, (Mobile: 8377911201) is appointed as a Scrutinizer and would be entitled to fee of Rs. 50,000/- for his services in addition to meeting his incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the above said meetings.

G) That individual notices of the said meetings shall be sent by the Applicant Companies through registered post or speed post or through courier or through e-

mail , 30 days in advance before the scheduled date of the meeting, indicating the day, date, the place and the time as aforesaid, together with a copy of Scheme of Amalgamation, copy of explanatory statement, required to be sent under the Companies Act, 2013 and the prescribed form of proxy shall also be sent along and in addition to the above any other documents as may be prescribed under the Act may also be duly sent with the notice.

H) That the Applicant Companies shall publish advertisement with a gap of at least 30 clear days before the aforesaid meetings, indicating the day, date and the place and time as aforesaid, to be published in the English Daily , “The Statesman”(Delhi Edition), Hindi Daily, “Jansatta”(Delhi Edition) stating that the copies of Scheme of Amalgamation, the Explanatory Statement required to be furnished pursuant to Section 230 of the Act, and the form of proxy shall be provided free of charge at the registered office of the Applicant Companies.

I) Voting shall be allowed on the proposed Scheme by voting in person, by proxy, through postal ballot or through electronic means as may be applicable to the respective companies under the Act and Rules framed there under. The Chairperson shall be responsible to report the result of the meeting within two weeks of the conclusion of the meeting with a vote on the proposed scheme.

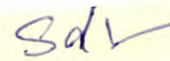
J) The companies shall individually send notice to Central Government, the Income Tax Authorities RBI and, concerned Registrar of Companies who may have significant bearing on the operation of the applicant companies along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with the Rules.

K) The applicant companies further shall furnish copy of the Scheme free of charge within 1 day of any requisition for the Scheme made by every creditor or member of both the companies entitled to attend the meetings as aforesaid.

L) The authorized representative of the Applicant Companies shall furnish an affidavit of service of notice of meetings and publication of advertisement and compliance of all directions contained herein at least a week before the proposed meetings.

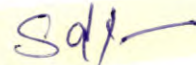
M) All the aforesaid directions are to be complied with strictly in accordance with the applicable law including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013 by the Applicants.

The application stands allowed on the aforesaid terms.



(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

22.03.2017



(R.VARADHARAJAN)
MEMBER (JUDICIAL)