

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

Company Petition No.79/ALD/2017
(Under Section 230-232 of the Companies Act, 2013)

IN THE MATTER OF THE COMPANIES ACT, 2013

IN THE MATTER OF

GANGETIC HOTELS PVT. LTD.

A private limited company incorporated
under the Companies Act, 1956,
having its registered office at
Mahmoodabad Estate Building, 15,
Hazaratganj, Lucknow-226 001

(TRANSFEROR COMPANY)

WITH

PALLADIUM CONSTRUCTIONS PVT. LTD.

A private limited company incorporated
under the Companies Act, 1956,
having its registered office at
R.R. Hosiery Building, Shri Laxmi Wollen
Mills Estate, opposite Shakti Mills, Mumbai-400 013


(TRANSFeree COMPANY)

JUDGMENT/ORDER DELIVERED ON 14.08.2017

Coram	:	Hon'ble Shri H.P. Chaturvedi, Member (J).
For the petitioner	:	Shri Prateek J. Nagar, Advocate.
For the Central Government :	:	Sh. M.K. Bagri, OL, Allahabad.

ORDER

The instant company application has been filed on behalf of the transferor company namely Shri Gangetic Hotels, Pvt. Ltd. for approval of the scheme of its amalgamation with M/s Palladium Constructions Pvt. Ltd., Mumbai.



The transferor company through this application (which is filed as first stage motion petition) prays for dispensing with the meeting of its shareholders and creditors for the purpose of approval of the proposed scheme of amalgamation. It also makes request for other relief, which this court may deem fit.


In support of the present application, the applicant company has pointed out and informed such the proposed scheme on behalf of the transferee company has earlier been sanctioned and approved by the Hon'ble NCLT, Mumbai Bench by its order dated 20th July, 2017 (passed in CSP No.434 of 2017).

The applicant transferor company in the present petition has stated that two companies intends to merge with as per the company scheme duly approved by its Board of Directors. Consequently, the entire business and undertaking of transferor company would stand transferred to and vested in and/are to be deemed to be merged with or vested in the transferee company from an appointed date as a going concern.

So as to become this, the undertakings, business, properties, assets and liabilities of the transferor company, its book values as on the appointed date, shall stands merged with the transferee company. The applicant company has annexed a true copy of the proposed company scheme duly approved by the Board of Director of both companies.

The applicant companies have also informed that the equity shareholders of transferor company have already given their consent in writing accepting and agreeing to the proposed scheme of amalgamation. Their affidavits to this effect, are annexed with the present petition.

The transferor company further informed that on date there is NIL secured creditor and there are only 196 unsecured creditors for outstanding amount of Rs.102,76,66,733/- as on 31st May, 2017, such description is given in the present application. It is stated that the unsecured creditors as shown at serial no.1 & 2 of the transferor company are having credit of Rs.101,29,50,000/-, which amount to 98.57% of the total credits value and they have already given their consent in writing to accept and agree to the proposed company scheme. They have filed their affidavits in this respect. Therefore, the consent of other



unsecured creditors will not affect the proposed scheme. Neither there is any sacrifice being sought for on the part of other unsecured creditors nor any waiver from them is called for nor their rights are not going sought to be curtailed or modified in any manner. It is submitted that the object of present company application is to seek dispensation of the meeting of its creditors and shareholders of the transferor company for the purpose of seeking approval of the proposed company scheme.

During the course of hearing of the present application on 21st July, 2017, this court raised certain queries to the applicant company and a necessary clarification was sought from, through its counsel.

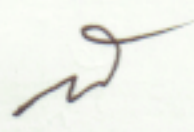
In response to this, the applicant company has filed a supplementary affidavit, clarifying the position stating that the interest of the other unsecured creditors are already taken care of in the proposed scheme, by making necessary provisions therein. The proposed company scheme is annexed with the present company application. Moreover, such company scheme already stands approved by the Hon'ble NCLT, Mumbai Bench.

That apart, it is further clarified that necessary terms & conditions have already been incorporated in the proposed scheme and there would be no change in the liability of the transferor company being merged with the transferee company, such a liability would be taken over by the transferee/resultant company.

In the light of the above given facts and circumstances, it may be seen that the interest of unsecured creditors is adequately taken care of. Hence, their consent on NOC for the proposed scheme is not material.

We have gone through the contents of the present company application and perused the documents annexed therewith.

Having heard the submission of petitioner counsel Sh. J. Nagar alongwith Sh. Prateek J. Nagar, we feel that the present company application deserves to be allowed. Hence, it is allowed in terms of its prayer clause.



Accordingly, the applicant company (the transferor company) is hereby permitted to dispense with the convening meeting of its shareholders and unsecured creditors seeking approval of the scheme of amalgamation.

The applicant company to make necessary compliance of direction given and to submit a compliance report alongwith the second stage (motion) company petition.

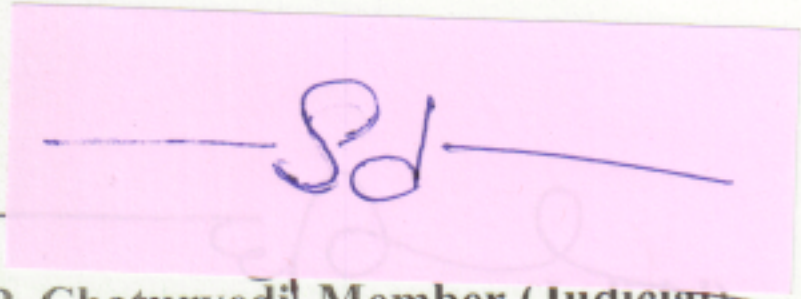
The present company application to be clubbed together with the second motion company petition, if filed. No order as to cost.

The present company application stands allowed. For reporting compliance, (if any).

The matter be listed on 8th September, 2017.

Dated:14.08.2017

Typed by:
Kavya Prakash


Sri H.P. Chaturvedi, Member (Judicial)

14/8/2017