BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
AT HYDERABAD

CA(CAA)No.28/230/HDB/2017

Date of order: 15.05.2017

M/s Ecap Equities Limited
Having registered office at
2nd Floor, M.B. Towers,
Plot No.5, Road No.2, Banjara Hills,
Hyderabad – 500 034. ... Applicant/Transferee Company

Parties Present:

Counsel for the Applicant: Mr. RavindraAnkam along with Mr. PasalaPunna Rao

CORAM

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Mr. RavikumarDuraisamy, Member (Technical)

ORDER
[As per Rajeswara Rao Vittanala, Member (Judicial)]

1. The present Company Application bearingCA(CAA)No.28/230/HDB/2017 is filed by M/sEcap Equities Limited,under Section 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 by inter-alia seeking the following reliefs:-

   i. To dispense with convening of a meeting of the Equity Shareholders of the Applicant Company.
   ii. To dispense with convening of a meeting of the Preference Shareholders of the Applicant Company.
   iii. To dispense with convening the meeting of the Secured Creditors of the Applicant Company.

iv. To dispense with convening the meeting of the Un-Secured Creditors of the Applicant Company, etc.

2. Brief facts, which are relevant to issue in question, are as follows:

a) The scheme of amalgamation is between the following Companies:

i) M/s Olive Business Centre Limited (1st Transferor Company - having its Registered Office in Mumbai).

ii) M/s Burlington Business Solutions Limited (2nd Transferor Company - having its Registered Office in Mumbai)

iii) M/s Auris Corporate Centre Limited (3rd Transferor Company - having its Registered Office in Mumbai).

iv) M/s Serenity Business Park Limited (4th Transferor Company - having its Registered Office in Mumbai).

v) M/s Eternity Business Centre Limited (5th Transferor Company - having its Registered Office in Mumbai) **with**

vi) M/s Ecap Equities Limited (Transferee Company - having its Registered Office in Hyderabad).

b) **Details of Applicant/Transferee Company**:

i) M/sEcap Equities Limited (hereafter referred to as "**Applicant/TransfereeCompany**") wasincorporated as a Public Limited Company on 11.01.2008 under the Companies Act, 1956in the State of Telangana.The Registered office of the 1st Applicant/Transferee Company is situated at 2nd Floor, M.B. Towers, Plot No.5, Road No.2, Banjara Hills, Hyderabad – 500 034.

ii) The main objects of the Applicant/Transferee Company are set out in the Memorandum of Association, in brief,are to carry on the business of an Investment Company and to acquire by purchase or securities shares, stocks, debentures, debenture-stock, bonds, obligations or securities of any Company or corporation and to deal in the same as brokers, sub-brokers or underwriters or sub-underwriters, etc.

iii) The authorised, issued, subscribed and paid-up share capital of theApplicant/TransfereeCompany as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
1,00,00,000 Equity Shares of Rs. 10 each	10,00,00,000
4,00,00,000 Preference Shares of Rs.10/- each	40,00,00,000
Total	**50,00,00,000**
Issued, Subscribed and Paid-up Capital	**Amount (Rs.)**
2,40,000 Equity Shares of Rs. 10 each fully paid-up	24,00,000
36,00,000 - 7% Non-cumulative Non-Convertible Redeemable Preference shares of Rs.10/- each fully paid up.	3,60,00,000
Total	**3,84,00,000**

Subsequent to the above date no change in the issued, subscribed and paid up capital of theApplicant/Transferor Company.

c) **<u>Details of the 1st Transferor Company</u>**:

M/s Olive Business Centre Limited (hereafter referred to as "**1st Transferor Company**") was incorporated as a Public Limited Company on 31.10.2014 under the Companies Act, 2013in the State of Maharashtra. The Registered office is situated at Edelweiss House, Off. C.S.T. Road, Kalina, Mumbai – 400098. The main objects are set out in the Memorandum of Association are to carry on the business to establish, operate, manage, control or otherwise deal in any manner with fully or partly furnished, staffed and equipped or otherwise, serviced offices or commercial accommodation, including one or more individual offices and offering ancillary business services including but not limited to audio/videos conferencing facilities, etc.

The authorised, issued, subscribed and paid-up share capital as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
2,10,00,000 Equity Shares of Rs.10 each	21,00,00,000
Issued, Subscribed and Paid-up Capital	
1,81,60,500 Equity Shares of Rs.10 each fully paid-up	18,16,05,000

Subsequent to the above date no change in the issued, subscribed and paid up capitalof the1st Transferor Company.

d) **Details of the 2nd Transferor Company**:

M/s Burlington Business Solutions Limited (hereafter referred to as "**2nd Transferor Company**") was incorporated as a Public Limited Company on 31.10.2014 under the Companies Act, 2013 in the State of Maharashtra. The Registered office is situated at Edelweiss House, Off. C.S.T. Road, Kalina, Mumbai – 400098. The main objects are set out in the Memorandum of Association are to carry on the business to establish, operate, manage, control or otherwise deal in any manner with fully or partly furnished, staffed and equipped or otherwise, serviced offices or commercial accommodation, including one or more individual offices and offering ancillary business services including but not limited to audio/videos conferencing facilities, etc. The authorised, issued, subscribed and paid-up share capital as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
2,10,00,000 Equity Shares of Rs.10 each	21,00,00,000
Issued, Subscribed and Paid-up Capital	
1,82,10,500 Equity Shares of Rs.10 each fully paid-up	18,21,05,000

Subsequent to the above date no change in the issued, subscribed and paid up capital of the 2nd Transferor Company.

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e) **<u>Details of the 3rd Transferor Company</u>:**

M/s Auris Corporate Centre Limited (hereafter referred to as "**3rd Transferor Company**") was incorporated as a Public Limited Company on 31.10.2014 under the Companies Act, 2013 in the State of Maharashtra. The Registered office is situated at Edelweiss House, Off. C.S.T. Road, Kalina, Mumbai – 400098. The main objects are set out in the Memorandum of Association are to carry on the business to establish, operate, manage, control or otherwise deal in any manner with fully or partly furnished, staffed and equipped or otherwise, serviced offices or commercial accommodation, including one or more individual offices and offering ancillary business services including but not limited to audio/videos conferencing facilities, etc. The authorised, issued, subscribed and paid-up share capital as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
2,10,00,000 Equity Shares of Rs.10 each	21,00,00,000
Issued, Subscribed and Paid-up Capital	
1,64,60,500 Equity Shares of Rs.10 each fully paid-up	16,46,05,000

Subsequent to the above date no change in the issued, subscribed and paid up capital of the 3rd Transferor Company.

f) **<u>Details of the 4th Transferor Company</u>:**

M/s Serenity Business Park Limited (hereafter referred to as "**4th Transferor Company**") was incorporated as a Public Limited Company on 03.11.2014 under the Companies Act, 2013 in the State of Maharashtra. The Registered office is situated at Edelweiss House, Off. C.S.T. Road, Kalina, Mumbai – 400098. The main objects are set out in the Memorandum of Association are to carry on the business to establish, operate, manage, control or otherwise deal in any manner with fully or partly furnished, staffed and equipped or otherwise, serviced offices or commercial accommodation, including one or more individual offices and offering ancillary business services including but not limited to audio/videos conferencing facilities, etc. The authorised, issued, subscribed and paid-up share capital as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
2,10,00,000 Equity Shares of Rs.10 each	21,00,00,000
Issued, Subscribed and Paid-up Capital	
1,91,60,500 Equity Shares of Rs.10 each fully paid-up	19,16,05,000

Subsequent to the above date no change in the issued, subscribed and paid up capital of the 4th Transferor Company.

g) **Details of the 5th Transferor Company**:

M/s Eternity Business Centre Limited (hereafter referred to as "**5th Transferor Company**") was incorporated as a Public Limited Company on 31.10.2014 under the Companies Act, 2013 in the State of Maharashtra. The Registered office is situated at Edelweiss House, Off. C.S.T. Road, Kalina, Mumbai - 400098. The main objects are set out in the Memorandum of Association are to carry on the business to establish, operate, manage, control or otherwise deal in any manner with fully or partly furnished, staffed and equipped or otherwise, serviced offices or commercial accommodation, including one or more individual offices and offering ancillary business services including but not limited to audio/videos conferencing facilities, etc. The authorised, issued, subscribed and paid-up share capital as on 28.02.2017 was as under:

Authorised Share Capital	**Amount (Rs.)**
2,10,00,000 Equity Shares of Rs.10 each	21,00,00,000

Issued, Subscribed and Paid-up Capital	
1,91,60,500 Equity Shares of Rs.10 each fully paid-up	19,16,05,000

Subsequent to the above date no change in the issued, subscribed and paid up capital of the 5th Transferor Company.

3. It is further submitted that the Transferee Company and the Transferor Companies are engaged in the similar business and the Scheme of Amalgamation will lead to synergies of operations would inter-alia be expected to have the following benefits:-

    a) Simplification of the group structure;
    b) Optimal utilization of resources, better administration and reduction of cost; and
    c) Achieving operational&management efficiency.

4. In view of the aforesaid advantages, the Board of Directors of the Applicant/Transferee Company vide its resolution dated 09.03.2017 approved the Scheme.

5. It is stated that there is no investigation or proceedings have been instituted or are pending againsttheApplicant/Transferee Company.

6. There are only 1 (one) Equity Shareholder and 2 (Two) Preference Shareholders in the Applicant/Transferee Companyand all of them have given their consent to the proposedScheme and the same was confirmed by the Applicant/Transferee Company by means of affidavitsand prayed the Hon'ble Tribunal to dispense with the meeting of the Equity Shareholders/Preference Shareholders as the same is not required.

7. At present, there is only 1 (One) Secured Creditor (i.e. Bajaj Finance Limited) of theApplicant/TransfereeCompany and the sole Secured Creditor

has given their consent to the proposed Scheme. As there is no compromise and/or arrangement with the Secured Creditor as no sacrifice is called for and the rights of the Secured Creditor will not be affected as the Secured Creditor would be paid off in the ordinary course of business and prayed the Hon'ble Tribunal to dispense with meeting of the Secured Creditor as the same is not required.

8. Presently, there are 69 Un-secured Creditors amounting to Rs.1950,61,42,453/- of the Applicant/Transferee Company and the consent has been obtained from 9 unsecured creditors constituting 75% amounting to Rs.1477,97,07,346/-. Subsequently, the Company obtained consent from M/s Adani Ports and Special Economic Zone Limited i.e. one of the unsecured creditorsof Rs.497 crores. As there is no compromise and/or arrangement with the Un-Secured Creditors as no sacrifice is called for and the rights of the Un-Secured Creditors will not be affected as the Un-Secured Creditors would be paid off in the ordinary course of business and requested the Hon'ble Tribunal to dispense with the meeting of the Secured Creditors as the same is not required.

9. Therefore, the Applicant/Transferee Company has sought the reliefs as mentioned supra.

10. We have heard Mr. Ravindra Ankam and Mr. P. Punna Rao, Learned Counsels for the Applicant/Transferee Company, and we have carefully perused all documents filed,along with relevant provisions of Companies Act, 2013. The Applicant/Transferee Companyhasfulfilled requirements to grant dispensation as sought for. No useful purpose would be served in case, if order to conduct any meetings of those stake holders as they have all already submitted their voluntary declarations by accepting the scheme of Amalgamation in question. We have perused all consents given by parties and convinced that they are bonafide in their submissions. Hence, the Applicant/TransfereeCompany is entitled to grant dispensation for meetings

ofits Equity Shareholders/Preference Shareholders and Secured Creditors and Un-Secured Creditors.

5. In the result, the CA(CAA)No.28/230/HDB/2017 is allowed with the following directions:-

a) Dispensed with the meetings of the Equity/Preference Shareholders and Secured/Unsecured Creditors of the Applicant/TransfereeCompany.

b) The Applicant/Transferee Company is directed to communicate this order to Registrar of Companies, Hyderabad and all other concerned authorities.

c) The parties who have not given their consent to the Scheme of Amalgamation are at liberty to express their views at the time of filing Company Petition by the Applicant/Transferee Company.

राष्ट्रीय कम्पनी विधि अधिकरण ★ National Company Law Tribunal ★ हैदराबाद न्यायपीठ Hyderabad Bench

Sd/-
RavikumarDuraisamy
Member (Technical)

Sd/-
RajeswaraRaoVittanala
Member (Judicial)

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

V. Annapoorna
V. ANNAPOORNA
Asst. DIRECTOR
NCLT, HYDERABAD.