

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

C.A. (CAA)No.552/KB/2017

In the Matter of:

An application under Sections 230
of the Companies Act, 2013 ;

And

In the Matter of:

BEETLE HOSPITALITY PRIVATE
LIMITED, a company incorporated
under the provisions of the
Companies Act, 1956 and having
its Registered Office at 4, Narayan
Prasad Babu Lane, 2nd Floor,
Kolkata - 700 007 within the
aforesaid jurisdiction ;

And

HIRISE HOSPITALITY PRIVATE LIMITED,
a Company incorporated under
the Companies Act, 1956 and

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having its Registered Office at 35,
Ganesh Chand Avenue, 3rd Floor,
Kolkata - 700 013, within the
aforesaid jurisdiction ;

And

1. BETTLE HOSPITALITY PRIVATE
LIMITED
2. HIRISE HOSPITALITY PRIVATE
LIMITED

CORAM: Shri V. P. Singh, Member, (Judicial)

Shri Jinan K. R., Member (Judicial)

For the Applicant :

1. Mr. Amitabh Shukla, Advocate.
2. Ms. Riya Sinha, Advocate

Date of Pronouncing the Order : 19-1-18

Per : Jinan K. R.

ORDER

This is an application under Sections 230-232 of the Companies Act, 2013
praying for holding and/or convening meeting of equity shareholders of the
applicants company for considering the Scheme of Arrangement between
Beetle Hospitality Pvt. Ltd.(the Resulting/Transferring Company) and the

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Hirise Hospitality Pvt. Ltd. (Demerged/Transferor Company) whereby and where under Beetle Hotels Unit situated at Mundhra, Gujarat of the demerged company is proposed to be demerged and be transferred to the Resulting Company i.e. Beetle Hospitality Pvt. Ltd

The object of this Application is to ultimately obtain sanction of this Tribunal to the Scheme of Arrangement proposed between the Demerged/Transferor Company and the Resulting/Transferee company and their respective shareholders whereby and where under one hotel business of the Hirise/Transferor company is proposed to be demerged and transferred to the Transferee/Resulting company.

A copy of the said Scheme of Arrangement is annexed with the Application and marked "D".

Hirise is a well established company and is engaged in the business of providing hospitality services. Currently, the Hirise/Demerged company operates two hotels with one based in Ahmedabad and one based in Mundhra, Gujarat in the name and style of Beetle Hotel.

In order to enable better focus to the operations of two hotels and for administrative convenience, Hirise proposes to reorganise and segregate by way of a demerger of its business, undertakings of Beetle hotels to Beetle Hospitality Private Limited, the Resulting company.

It is stated in the Application that better synergy in cash flow can be obtained if both hotels are operated to separated companies resulting in better management focus.

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It is further stated in the Application that separation of hotels by way of Scheme including its distinct business, undertaken and investment from the demerged company would lead to significant benefit for both the hotels including enhanced strategic flexibility, dedicated management focus each hotel and branch improvement.

It is stated in the Application that the Scheme of Arrangement will enable the companies concerned to diversify and expand their activities.

It is stated in the Application that the Scheme will have beneficial results for the companies concerned, their shareholders, employees and all concerned.

The Board of Directors of both the applicant companies have at their respective Board meetings, by a resolution passed unanimously, approved the Scheme of Arrangement.

The copies of the resolution passed by the applicant companies are annexed with the Application and marked "E".

It is submitted in the Application that the assets of the applicant companies are sufficient to meet all their liabilities and the Scheme of Arrangement will not adversely affect the rights of any of the creditors of any of the applicant companies in any manner whatsoever.

The applicant companies have made due provisions for payment of all the liabilities as and when the same will fall due.

It is submitted in the Application that no application is pending for any proceedings/investigation/litigation against the Applicant companies.

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It is stated in the application that the total number of equity shareholders of the Demerged/Transferor Company is 8 and the total number of equity shareholder of the Resulting/Transferee Company is 8.

The list of the shareholders of the applicant companies are annexed with the Application and collectively marked with "F."

It is stated in the Application that there are no creditors of the Resulting/transferring company.

The creditors of the Demerged/Transferor Company are 9.

The list of the creditors of the Demerged/Transferor Company is annexed to the Application and collectively marked with "G."

It is submitted in the Application that the said creditors have no objection, if the Scheme of Arrangement is approved.

The copies of the letters of consent of the creditors of the demerged/transferor company are annexed with the Application and collectively marked "H".

It is also stated in the Application that all the shareholders of the Demerged/Transferor company and the Resulting/Transferee Company have considered the proposed Scheme of Arrangement and approved the same without any modification and forwarded their respective written consent to the Scheme of Arrangement for approval

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Further, all the shareholders of both the applicant companies have also consented to waive holding meetings to consider the Scheme of Arrangement.

The copies of the said consent letter received from the shareholders of the Demerged/Transferor company and the Resulting Transferee company are annexed with the application and collectively marked with "I".

In view of such consent of the shareholders of the Demerged/Transferor company and the Resulting/Transferee Company to the Scheme of Arrangement and waiving of requirement to hold meeting to consider the Scheme of Arrangement by the shareholders of the companies concerned, the Applicant companies have submitted to waive the requirement of holding the meeting of the shareholders of the Demerged Company and the Resulting Company and to dispense with the convening and holding of meetings to consider the Scheme of Arrangement.

Heard the learned Counsel for the applicant, perused the records, documents annexed to the application and affidavits filed in the instant proceedings and after hearing the submissions made on behalf of the applicant, the following orders are passed :

(1) Meeting of the equity shareholders of Beetle Hospitality Pvt. Ltd., the Resulting/Transferring Company shall be convened and held at 10, Kiran Shankar Roy Road, 2nd Floor, Room No. 34/35, Kolkata – 700 001 on the 16th day of March, 2018 at 11 A.M. for the purpose of considering, and if thought fit approving, with or without modification, the proposed Scheme of Arrangement of the Applicant Companies ;

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(2) Meeting of the equity shareholders of Hirise Hospitality Pvt. Ltd., Demerged/Transferor Company shall be convened and held at 10, Kiran Shankar Roy Road, 2nd Floor, Room No. 34/35, Kolkata – 700 001 on the 16th day of March, 2018 at 12 P.M. for the purpose of considering, and if thought fit approving, with or without modification, the proposed Scheme of Arrangement of the Applicant Companies ;

(3) Since there are no creditors of the Resulting/Transferring Company, convening and holding of the meeting of the Creditors of the Resulting/Transferring Company is dispensed with ;

(4) Meeting of the creditors of Hirise Hospitality Pvt. Ltd., Demerged/Transferor Company shall be convened and held at 10, Kiran Shankar Roy Road, 2nd Floor, Room No. 34/35, Kolkata – 700 001 on the 16th day of March, 2018 at 1 P.M. for the purpose of considering, and if thought fit approving, with or without modification, the proposed Scheme of Arrangement of the Applicant Companies ;

(5) Mrs. Manju Bhuteria, Advocate, is appointed as the Chairperson for the meetings of the equity Shareholders of the Applicant Companies and for the meeting of the Creditors of the Demerged/Transferor Company to be held as aforesaid, at a consolidated remuneration of lump sum Rs. 50,000/- (Rupees Fifty thousand only).

(6) That the Chairperson appointed for the said meetings or any person authorised by him do issue and send out the notice of the said meetings referred to above.

(7) The Chairperson or Authorized Representative of the Chairperson shall

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furnish an Affidavit of Service of Notice of meeting and of advertisement and compliance of all directions contained herein at least a week before the proposed meeting.

(8) At least one month before the aforesaid date of the said meeting of the Equity Shareholders of the Applicant Companies and for the meeting of the Creditors of the Demerged/Transferor Company, an advertisement about convening of the meeting of the equity shareholders of the Applicant Companies and of the meeting of the Creditors of the Demerged/Transferor Company, indicating the place, day, date and time, as aforesaid, shall be published in the "Economic Times" in the English Daily and "Pratidin", in the Bengali Daily. The publication shall indicate the time within which copies of the Scheme of Arrangement shall be made available to the concerned persons free of charge from the registered office of the Applicant or from the Office of the Advocates of the Applicant Companies, M/s. Shukla & Company. The publication shall also indicate that the Statement containing necessary details required to be furnished pursuant to Section 102 read with Sections 230 of the Companies Act, 2013 and the prescribed form of proxy can be obtained free of charge at the registered office of the Applicant Companies in accordance with second proviso to sub-section (3) of Section 230 of the Act and Rule 7 of the Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 ["Companies (CAA) Rules, 2016"].

(9) At least one month before the aforesaid date of the said meeting of the equity shareholders of the Applicant Companies and the meeting of the Creditors of the Demerged/Transferor Company, a notice convening meeting in Form C.A.A.2 indicating the day, date, place and times as aforesaid together with a copy of the Scheme of Arrangement, copy of statement required to be furnished pursuant to Section 102 of the Act read with section 230 of the Act and Rule 6 of Companies (CAA) Rules, 2016 and the prescribed

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form of proxy shall be sent to each of the equity shareholders of the Applicant Companies and to the Creditors of the Demerged/Transferor Company, at their respective registered or last known addresses either by registered post or speed post / Airmail or through courier or through e-mail. The notice shall be sent to the equity shareholders of the Applicant Companies and to the Creditors of the Demerged/Transferor Company with reference to the list of persons appearing on the record of Applicant Companies as on 31st December, 2017.

(10) To serve the notice as per requirements of sub-section (5) of Section 230 of the Companies Act, 2013 along with all the documents including a copy of the Scheme of Arrangement and the Statement disclosing necessary details on the Central Government, through the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, Registrar of Companies, West Bengal; and the concerned Income-Tax Assessing Officer along with the Chief Commissioner of Income-Tax with PAN numbers of the Applicant Companies having jurisdiction over the Applicant Companies and such other relevant sectoral regulators/ authorities, if applicable, which are likely to be affected by the proposed Scheme of Arrangement, by sending the same by hand delivery through , through E-Mail and by Speed Post, special messenger or by registered post, both, within 14 days from the date of this order for filing their representation, if any, within 30 days from the date of notice. The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days of the date of receipt of the notice with a copy of such representation being sent simultaneously to the applicants and/or their Advocates. If no such representation is received by the Tribunal within the said period, it shall be presumed that such authorities have no representation to make on the Scheme of Arrangement. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 and Companies (Compromises, Arrangements &

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Arrangement) Rules, 2016 with necessary variations incorporating the directions therein.

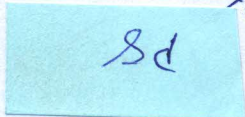
(11) That voting by proxy be permitted, provided that a proxy in the prescribed form duly signed by the person(s) entitled to attend and vote at the meeting, is filed with the concerned Applicant Companies at their Registered Office not later than forty eight hours before the meetings. The Chairperson shall have the power to adjourn the meeting, if necessary, and to conduct the procedure for the adjourned meeting as deemed necessary under the Act.

(12) That the Chairperson do report to this Court the results of the said meetings within four weeks from the date of the conclusion of the meeting and his report shall be verified by his affidavit.

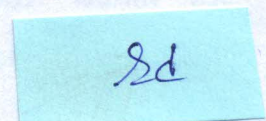
The Application bearing No. CA(CAA) No. 552/KB/2017 is, accordingly, disposed of.

Parties and the Chairpersons to act on the order.

Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

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(V. P. Singh)
Member(Judicial)



(Jinan K. R.)
Member(Judicial)

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