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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2015

Coram

The Hon'ble **Mr. Justice R. MAHADEVAN**

C.P.Nos.67 and 68 of 2015

M/s.Hotel Radhaprasad Pvt Ltd
Rep. By its Director
Mr.R.Radha
No.Plot 26-A 4th Main Road
SIPCOT IT PARK
SIRUSERI CHENNAI .. Petitioner in C.P.No.67 of 2015
/Transferor Company

M/s.Hotel Thara Pvt Ltd
Rep. By its Managing Director
Mr.R.Radha
4/38L, Sankari Road
Tiruchengode
Tamil Nadu 637 211 .. Petitioner in C.P.No.68 of 2015
/Transferee Company

Company Petitions filed under Sections 391 to 394 of
the Companies Act, 1956 to sanction the Scheme of
Arrangement.

For Petitioners : Mr.V.Venkadasalam

Mr.M.Gopikrishnan
Additional Central Government
Standing Counsel
for Regional Director
Ministry of Corporate Affairs,
Chennai.

COMMON ORDER

These Company Petitions are preferred under Sections
391 to 394 of the Companies Act, 1956, for sanctioning the
Scheme of Arrangement of the Transferor Company with the
Transferee Company with effect from 01.04.2014. The Scheme
of Arrangement is annexed as Annexure-D in the respective



petitions.

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2. The petitioner in C.P.No.67 of 2015 is the Transferor Company and the petitioner in C.P.No.68 of 2015 is the Transferee Company.

3. A perusal of the records show that the petitioners have complied with the prescribed procedure. The certificate obtained from the Auditor confirming that the Transferor Company / petitioner in C.P.67 of 2015 has 3 secured creditors as on 10.11.2014 and the consent obtained from the secured creditors stating no objection in transferring the properties from M/s.Hotel Radha Prasad P Limited to M/s.Hotel Thara P. Ltd through the scheme of arrangement is also annexed as Annexure-F. The certificate from the Auditor certifying that there are no secured creditors to the Transferee Company / petitioner in C.P.68 of 2015 is annexed as Annexure-F in C.P.No.68 of 2015. The copy of the Resolution, dated 10th November 2014 of the Board of Directors adopting the Scheme of Arrangement is enclosed as Annexure-C in both the petitions.

4. The consent affidavits from the equity shareholders of both the Transferor and the Transferee company to the Scheme of Arrangement is annexed as Annexure-E in the respective petitions. This Court, in its order dated 02.02.2015, in C.A.Nos.86 and 87 of 2015 in the case of the Transferor Company and the Transferee Company respectively,



meeting of the equity shareholders for the purpose of considering and if thought fit, approving with or without modification, the Scheme of Arrangement of the Transferor Company with the Transferee Company.

5. On notice, the Regional Director, Ministry of Corporate Affairs, Chennai, has filed his report and in paragraph Nos.5, 6 and 7, it has been stated as follows:-

"5. It is respectfully submitted that as per Para No.6(b) of the scheme, all employees with respect to Namakkal Division of the Demerged/Transferor company in service as on the Effective date, shall become the employees of the Resultant/Transferee company on such date without any break or interruption in service.

6. It is humbly submitted that as per the report of ROC, Chennai the Demerged/Transferor company has filed its statutory returns up-to-date and there are no prosecution filed, no complaints received and no scrutiny, inspection has been made in the Demerged/Transferor company. As per the records of this office, the Resultant/Transferee company has filed its statutory returns upto date and there are no inspection or investigation pending with this



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office.

7. It is respectfully submitted that violations, if any, noticed from the documents filed by the companies will be dealt in accordance with provisions of the Companies Act, 1956.

The scheme of arrangement filed the petitions have been examined and it has been decided not to make any objection to the Scheme and it is therefore prayed that this Hon'ble Court may dispose the petitions on merits."

6. I have perused the Scheme filed in the Company Petitions and find it beneficial to the working of the Transferee Company and is in the interests of the Transferor Company. There is no objectionable feature in the Scheme of Arrangement detrimental either to the employees of the Transferor Company or of the Transferee Company. The said Scheme is not violative of any statutory provisions. The Scheme is fair, just, sound and is not against any public policy or public interest. No proceedings are pending under Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions are complied with.

7. Consequently, there shall be an order approving the Scheme of Arrangement for hiving off the Namakkal Division of the Transferor Company viz., M/s. Hotel Radhaprasad Pvt



Ltd, the petitioner in C.P.No.67 of 2015 and vest the same with the Transferee Company viz., M/s.Hotel Thara Pvt Ltd, the petitioner in C.P.No.68 of 2015, as provided in Annexures-D in these Company Petitions, with effect from 01.04.2014, so as to be binding on all the shareholders of the petitioners company as the procedure laid down under Sections 391 and 394 of the Companies Act are duly complied with. These Company Petitions are allowed.

8. Taking note of the report by the Chartered Accountant, the hiving off the Namakkal Division of Transferor Company and vest the same with Transferee Company as set out in the Scheme of Arrangement is sanctioned.

9. Learned Additional Central Government Standing Counsel is entitled to a fee of Rs.5,000/- from each of the petitioner Companies.

sd/.R.M.D.J

30.03.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/08.04.2015

COURT OFFICER

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