IN THE HIGH COURT OF DELHI

COMPANY APPLICATION (MAIN) NO. 62/2015

Reserved on 20th April, 2015
Date of pronouncement: 14th May, 2015

In the matter of
The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

Application under Sections 391 and 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959

Scheme of Amalgamation of:

Shakti Hotels Private Limited
Applicant/Transferor Company No. 1

Commercial Advertising and Marketing Private Limited
Applicant/Transferor Company No. 2

WITH

Securocrop Securities India Private Limited
Applicant/Transferee Company

Through Mr. Ashish Middha, Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 and 394 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders, secured and unsecured creditors to consider and approve, with or without modification, the proposed Scheme of Amalgamation of Shakti Hotels Private Limited (hereinafter referred to as the transferor company

no. 1) and Commercial Advertising and Marketing Private Limited (hereinafter referred to as the transferor company no. 2) with Securocrop Securities India Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the transferor and transferee companies are situated at New Delhi, within the jurisdiction of this Court.

3. The transferor company no. 1 was incorporated under the Companies Act, 1956 on 15th January, 1998 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The transferor company no. 2 was incorporated under the Companies Act, 1956 on 10th November, 2006 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferee company was incorporated under the Companies Act, 1956 on 17th February, 1995 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The present authorized share capital of the transferor company no.1 is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is

Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each fully paid-up.

7. The present authorized share capital of the transferor company no.2 is Rs.5,00,000/- divided into 50,000 equity shares of Rs.10/- each. The issued, subscribed and paid up capital of the company is Rs.4,34,250/- divided into 43,425 equity shares of Rs.10/- each fully paid-up.

8. The authorized share capital of the transferee company, as on 31st March, 2014 was Rs.22,00,000/- divided into 22,000 equity shares of Rs.100/- each. The issued, subscribed and paid up capital of the company was Rs.21,85,200/- divided into 21,852 equity shares of Rs.100/- each fully paid-up.

9. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheets, as on 31st March, 2014, of the transferor and transferee companies, along with the report of the auditors, have also been filed.

10. A copy of the Scheme of Amalgamation has been placed on record and the salient features of the Scheme have been incorporated and

detailed in the application and the accompanying affidavits. It is submitted by the applicants that the proposed scheme will result in formation of a larger company enabling further growth and development of the business of the said company thus enabling the said company to obtain greater facilities possessed and enjoyed by one large company compared to a small company for raising capital, securing and conducting trade and business on favourable terms and other related benefits. It is claimed that the proposed amalgamation will result in reduction in overheads and other expenses, reduction in administrative and procedural work, eliminate duplication of work, better and more productive utilization of various resources and will enable the undertakings concerned to effect internal economies and optimize productivity.

11. So far as the share exchange ratio is concerned, the Scheme provides that upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the transferor companies in the following ratio:-

> "27 equity shares of Rs.100/- each of the transferee company, credited as fully paid up, for every 20 equity shares of Rs.10/- each held in the transferor company no. 1."
>
> "14 equity shares of Rs.100/- each of the transferee company, credited as fully paid up, for every 10 equity shares of Rs.10/- each held in the transferor company no. 2."

12. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

13. The Board of Directors of the transferor and transferee companies in their separate meetings held on 14th February, 2015 have unanimously approved the proposed Scheme of Amalgamation. Copies of the Resolutions passed at the meetings of the Board of Directors of the transferor and transferee companies have been placed on record.

14. The transferor company no. 1 has 17 equity shareholders and 02 unsecured creditors. All the equity shareholders and both the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the transferor company no. 1 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 1, as on 15th February, 2015.

15. The transferor company no. 2 has 12 equity shareholders and 05 unsecured creditors. All the equity shareholders and all the unsecured creditors have given their consents/no objections in writing to the proposed Scheme of Amalgamation. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meetings of the equity shareholders and unsecured creditors of the transferor company no. 2 to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with. There is no secured creditor of the transferor company no. 2, as on 15th February, 2015.

16. The transferee company has 27 equity shareholders. The applicants claimed to have placed on record the consents of all the shareholders but on examination it is noticed that the consents of only 22 shareholders, being 81.48% in number and 87% in value, have been placed on record. The consents have been examined and found in order. In view of the fact that the shareholders representing 87% of the total share capital have given their consents to the proposed Scheme, the requirement of convening the meeting of the equity shareholders of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

17. The transferee company has 02 unsecured creditors, as on 15th February, 2015. The applicant transferee company in Para 16 of the affidavit in support of summons dated 4th April, 2015 has submitted that the dues of these two unsecured creditors have been paid off in full on 29th March, 2015. In view thereof, the requirement of convening the meeting of the unsecured creditors of the transferee company does not arise. The transferee company does not have any secured creditor, as on 15th February, 2015.

18. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 14, 2015