IN THE HIGH COURT OF DELHI

COMPANY APPLICATION (MAIN) NO. 63/2015

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(1) & 394 of the Companies Act, 1956

Scheme of Amalgamation of:

Quiet Minds Resorts Private Limited
Applicant/Transferor Company No. 1

Monk Resorts Private Limited
Applicant/Transferor Company No. 2

Manomay Apparels Private Limited
Applicant/Transferor Company No. 3

Swirl Portfolio Private Limited
Applicant/Transferor Company No. 4

Erudite Shares and Securities Private Limited
Applicant/Transferor Company No. 5

WITH

Balar Marketing Private Limited
Applicant/Transferee Company

Through Mr. Rajeev K. Goel, Advocate for the applicants

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391(1) & 394 of the Companies Act, 1956 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 Quiet Minds Resorts Private Limited (hereinafter referred to as the transferor company no. 1); Monk Resorts Private Limited (hereinafter referred to as the transferor company no. 2); Manomay Apparels Private Limited (hereinafter referred to as the transferor company no. 3); Swirl Portfolio Private Limited (hereinafter referred to as the transferor company no. 4); and Erudite Shares and Securities Private Limited (hereinafter referred to as the transferor company no. 5) with Balar Marketing 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 29th July, 2011 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 28th July, 2011 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferor company no. 3 was incorporated under the Companies Act, 1956 on 17th August, 2007 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

6. The transferor company no. 4 was originally incorporated under the Companies Act, 1956 on 15th December, 2009 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Sumangal Infracon Private Limited. The company changed its name to Swirl Portfolio Private Limited and obtained the fresh certificate of incorporation on 6th September, 2011

7. The transferor company no. 5 was incorporated under the Companies Act, 1956 on 21st May, 2009 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

8. The transferee company was incorporated under the Companies Act, 1956 on 20th October, 1992 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

9. The present authorized share capital of the transferor company no.1 is Rs.25,00,000/- divided into 2,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.10,50,000/- divided into 1,05,000 equity shares of Rs.10/- each.

10. The present authorized share capital of the transferor company no.2 is Rs.25,00,000/- divided into 2,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.10,50,000/- divided into 1,05,000 equity shares of Rs.10/- each.

11. The present authorized share capital of the transferor company no.3 is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.4,00,000/- divided into 40,000 equity shares of Rs.10/- each.

12. The present authorized share capital of the transferor company no.4 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.49,40,000/- divided into 4,94,000 equity shares of Rs.10/- each.

13. The present authorized share capital of the transferor company no.5 is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.41,21,500/- divided into 4,12,150 equity shares of Rs.10/- each.

14. The present authorized share capital of the transferee company is Rs.9,00,00,000/- divided into 90,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.8,79,11,640/- divided into 87,91,164 equity shares of Rs.10/- each.

15. 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, and the unaudited provisional accounts of the transferor and transferee companies, as on 30th November, 2014, have also been filed.

16. 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 transferor and transferee companies are family owned group companies and the proposed amalgamation would result in business synergy, consolidation and pooling of their resources. It is claimed that the proposed amalgamation will result in usual economies of a centralized and a large company including elimination of duplicate work, reduction in overheads, better and more productive utilization of human and other resources and enhancement of overall business efficiency. It will enable these companies to combine their managerial and operating strength, to build a wider capital and financial base and to promote and secure overall growth of their businesses.

17. 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:-

> "179 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares held in the transferor company no. 1."
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> "176 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares held in the transferor company no. 2."
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> "100 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 526 equity shares held in the transferor company no. 3."
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> "388 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares held in the transferor company no. 4."
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> "1159 equity shares of Rs.10/- each of the transferee company, credited as fully paid up, for every 100 equity shares held in the transferor company no. 5."

18. 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.

19. The Board of Directors of the transferor and transferee companies in their separate meetings held on 16th December, 2014 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.

20. The transferor company no. 1 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only unsecured creditor 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 creditor 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 30.11.2014.

21. The transferor company no. 2 has 02 equity shareholders. Both the equity shareholders 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 meeting of the equity shareholders 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 or unsecured creditor of the transferor company no. 2, as on 30.11.2014.

22. The transferor company no. 3 has 10 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor 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 creditor of the transferor company no. 3 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. 3, as on 30.11.2014.

23. The transferor company no. 4 has 02 equity shareholders and 01 unsecured creditor. Both the equity shareholders and the only unsecured creditor 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 creditor of the transferor company no. 4 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. 4, as on 30.11.2014.

24. The transferor company no. 5 has 10 equity shareholders and 01 unsecured creditor. All the equity shareholders and the only unsecured creditor 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 creditor of the transferor company no. 5 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. 5, as on 30.11.2014.

25. The transferee company has 14 equity shareholders, 04 secured creditors and 71 unsecured creditors. All the equity shareholders, all the secured creditors and 65 out of 71 unsecured creditors, being 91.55% in number and 99.60% in value, 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, secured and unsecured creditors of the transferee company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Amalgamation is dispensed with.

26. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

May 14, 2015