

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 119/2015

Reserved on 7th July, 2015
Date of pronouncement: 27th July, 2015

In the matter of

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

And

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

Scheme of Amalgamation of:

Competent Hotels Private Limited

Applicant/Transferor Company No. 1

Divine Heritage Hotels Private Limited

Non-Applicant/Transferor Company No. 2

Holiday on Hills Resorts Private Limited

Non-Applicant/Transferor Company No. 3

WITH

Mahindra Holidays & Resorts Private Limited

Non-Applicant/Transferee Company

**Through Mr. Rakesh Kumar Singh and
Mr. Abhishek Seth, Advocates for the
applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rules 6 & 9 of the Companies (Court) Rules, 1959 by the applicant/transferor company no. 1 seeking directions of this court to dispense with the requirement of convening the meetings of its equity shareholders, secured and unsecured creditors to

consider and approve, with or without modification, the proposed Scheme of Amalgamation of Competent Hotels Private Limited (hereinafter referred to as the applicant/transferor company no. 1); Divine Heritage Hotels Private Limited (hereinafter referred to as the transferor company no. 2) and Holiday on Hills Resorts Private Limited (hereinafter referred to as the transferor company no. 3) with Mahindra Holidays & Resorts Private Limited (hereinafter referred to as the transferee company).

2. The registered office of the applicant/transferor company no. 1 is situated at New Delhi, within the jurisdiction of this Court. However, the registered offices of the transferor companies no. 2, 3 and the transferee company are situated at Rajasthan, Himachal Pradesh and Tamil Nadu respectively, outside the jurisdiction of this Court. Learned counsel for the applicant submitted that separate applications are being filed by the transferor companies no. 2 & 3 and the transferee company in the court of competent jurisdiction for sanction of the Scheme of Amalgamation in their respect.

3. The applicant/transferor company no. 1 was originally incorporated under the Companies Act, 1956 on 30th May, 1986 with the Registrar of Companies, Punjab, H.P. & Chandigarh under the name and style of Orchid Resorts Private Limited. The company shifted its registered office

from the State of Himachal Pradesh to NCT of Delhi and obtained a certificate in this regard from the Registrar of Companies, NCT of Delhi & Haryana at New Delhi on 15th March, 2002. Thereafter, the company changed its name to Competent Hotels Private Limited and obtained the fresh certificate of incorporation on 20th September, 2002.

4. The present authorized share capital of the applicant/transferor company no. 1 is Rs.5,00,00,000/- divided into 3,50,000 equity shares of Rs.100/- each aggregating to Rs.3,50,00,000/-; 1,50,000 14% non-cumulative redeemable preference shares of Rs.100/- each aggregating to Rs.1,50,00,000/-. The present issued, subscribed and paid-up share capital of the company is Rs.3,08,30,000/- divided into 3,08,300 equity shares of Rs.100/- each.

5. Copies of the Memorandum and Articles of Association of the transferor and transferee companies have been filed on record. The audited balance sheet, as on 31st March, 2015, of the applicant/transferor company, along with the report of the auditors, have also been filed.

6. 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 affidavit. It is claimed by the applicants that the proposed amalgamation will consolidate the

hotel and resorts business in a single entity which will provide synergy benefits, attain efficiencies and reduce overall cost. It is further claimed that the proposed amalgamation will result in business synergies besides economies in cost by combining all the functions, related activities and operations and benefits in the form of managerial and technical expertise.

7. So far as the share exchange ratio is concerned, the Scheme provides that the applicant/transferor company no. 1 is a wholly owned subsidiary of the transferee company and, therefore, no shares shall be issued by the transferee company pursuant to the amalgamation.

8. It has been submitted by the applicant that no proceedings under Sections 235 to 251 of the Companies Act, 1956 and/or under corresponding provisions of the Companies Act, 2013, to the extent applicable, are pending against the applicant company.

9. The Board of Directors of the applicant/transferor company no. 1 and the transferee company in their separate meetings held on 22nd January, 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.

10. The applicant/transferor company no. 1 has 03 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 applicant/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 applicant/transferor company no. 1, as on 31st March, 2015.

11. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

July 27, 2015