IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2016

DELIVERED ON : 07.11.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

C.P.Nos.318 and 319 of 2014

Alphome Hotels Private Limited
No.21, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.
Tamil Nadu
represented by its Director
Mrs.Anna Joseph

.. Petitioner in C.P.No.318 of 2014 / Transferor Company

Alphone Estate Private Limited
No.21, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.
Tamil Nadu
represented by its Director
Mrs.Anna Joseph

.. Petitioner in C.P.No.319 of 2016 / Transferee Company

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

For Petitioners : Mr.Pawan Jabhakh
for M/s.Harishankar Mani

Mr.Venkatasamy Babu
CGSC for Regional Director
Ministry of Company Affairs,Chennai

Mr.Atchuta Ramaiah,
Official Liquidator

C O M M O N O R D E R

1. These company petitions are preferred under Sections 391 to 394 of the Companies Act, 1956 for sanctioning the scheme of amalgamation of the transferor company with the transferee company with effect from 01.04.2013. The scheme of amalgamation (in short scheme) is appended as Annexure '5' to the petitions.

2. The petitioner in C.P.No.318 of 2016 is the transferor company and the petitioner in C.P.No.319 of 2016 is the transferee company.

3. A perusal of the record shows that the petitioners have complied with the prescribed procedure. It is stated that both the transferor as well as the transferee company have no secured and unsecured creditors. The Certificates of the Chartered Accountant confirming the same are appended to typed set - II.

4. A copy of two separate resolutions of even date, i.e., 03.03.2014, passed by the Board of Directors of both the transferor company as well as the transferee company approving the scheme is enclosed as Annexure '4' to the petitions.

5. The affidavits of equity shareholders of the transferor company as well as the transferee company giving their consent to the proposed scheme are appended as Annexure '8' to the petitions.

5.1. This Court, by order dated 30.04.2016, passed in C.A.Nos.533 and 534 of 2014 dispensed with the convening, holding and conducting of the meeting of the equity shareholders of the transferor company and the transferee company, respectively to consider the proposed Scheme, inter alia, for the reason that their equity shareholders had given their consent to it.

6. Upon notice being issued, the Regional Director, Ministry of Company Affairs has filed his report stating that he had no objection to the scheme being sanctioned.

7. The Official Liquidator has also filed his report along with the report of the Chartered Accountant. The Chartered Accountant, in his report, states that the affairs of the transferor company have not been conducted in a manner prejudicial to the interest of its members or to public interest, and that, he has not come across any act of misfeasance by the Directors attracting the provisions of Sections 542 and 543 of the Companies Act, 1956. It is further stated that the records maintained in the office of the Registrar of Companies were also caused to be inspected by the said Chartered Accountant. In the absence of any material that the affairs of the transferor company were being conducted in a manner prejudicial to the interest of its members or public interest, the Official Liquidator has filed his report before this Court for appropriate orders.

8. I have perused the proposed scheme filed along with the company petitions as also the affidavits placed on record. I find that the Scheme as proposed is not prejudicial to the interest of any person or entity, which has a stake/interest in the petitioner company. The said scheme, as framed, is not violative of any statutory provisions.

9. The scheme as formulated is fair, just, sound and is not contrary to any public policy or public interest. No proceedings appear to be pending under the provisions of Sections 231 to 237 of the Companies Act, 1956. All the statutory provisions appear to have been complied with.

10. Consequently, there shall be an order approving the scheme of amalgamation between the transferor company, viz., Alphome Hotels Private Limited with the transferee company, viz., Alphome Estate Private Limited, with effect from 01.04.2013, as per the procedure laid down under Sections 391 to 394 of the Companies Act.

11. Taking note of the report by the Chartered Accountant as enclosed by the Official Liquidator, in terms of the order passed by this Court, the transferor company shall stand dissolved, albeit, without winding up.

12. It is made clear, that this order will not be construed as an order granting exemption from payment of stamp duty or, taxes or, any other charges, if any, payable, as per the relevant provisions of

law or, from any applicable permissions that may have to be obtained or, even compliances that may have to be made, as per the mandate of law.

13. The learned Senior Central Government Standing Counsel will be entitled to a fee of Rs.5,000/-, which shall be paid by the transferee company.

14. The above petition is disposed of in the aforementioned terms.

Index: Yes / No
Internet: Yes / No 07.11.2016
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<u>RAJIV SHAKDHER,J.</u>

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Pre-Delivery Common Order in

C.P.Nos.318 and 319 of 2014

Dated: 07.11.2016