

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

9. C.A.(CAA)/94(MB)2024

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 01.07.2024**

**NAME OF THE PARTIES:- SNVK Hospitality And Management Private
Limited**

Section: 230(1) of the Companies Act, 2013

ORDER

Counsel, Hemant Sethi a/w Tanya Sethi appeared for the Petitioner. Heard, Counsel for the Applicant for a considerable time, detailed orders will follow vide separate sheet.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)
ANKIT

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT II

C.A. (CAA)/ 94 /MB /2024

In the matter of the Companies Act, 2013
(18 of 2013)

AND

In the matter of Sections 230 to 232 and
other applicable provisions of the
Companies Act, 2013 and Rules framed
there under as in force from time to time;

AND

In the matter of Scheme of Amalgamation
(Merger by Absorption) of SNVK
Hospitality & Management Private
Limited ('First Applicant Company' or
'Transferor Company') into Travel Food
Services Private Limited ('Second
Applicant Company' or 'Transferee
Company') and their respective
shareholders

SNVK Hospitality & Management Private)

Limited (CIN:)

U70102MH2009PTC191961), a company)

incorporated under the Companies Act,)

1956 having its registered office at, 1B)

Rashid Mansion, Ground Floor, Dr. Annie)

Besant Road, Worli, Mumbai, Maharashtra,)

India, 400018.) First Applicant Company /

Transferor Company

Travel Food Services Private Limited)

(CIN: U55209MH2007PTC176045), a)

company incorporated under the Companies)

Act, 1956 having its registered office at,)

Block-A South Wing 1st Floor Shiv Sagar)

Estate Dr. Annie Besant Road, Worli,)

Mumbai City, Mumbai, Maharashtra, India,) Second Applicant Company

400018. / Transferee Company

(First Applicant Company and Second Applicant Company are together referred to as 'Applicant Companies')

Order delivered on 01.07.2024

Coram:

Anil Raj Chellan

Kuldip Kumar Kareer

Member (Technical)

Member (Judicial)

Appearances:

For the Applicant Companies : Mr. Hemant Sethi, Ms. Tanya Sethi,
i/b Hemant Sethi & Co.,
Advocates

ORDER

Per: Coram

1. The Learned Counsel for the Applicant Companies submits that the present Scheme is a Scheme of Amalgamation (Merger by Absorption) of SNVK Hospitality & Management Private Limited ('First Applicant Company' or 'Transferor Company') into Travel Food Services Private Limited ('Second Applicant Company' or 'Transferee Company') and their respective shareholders under section 230 to 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 and Rules framed there under as in force from time to time (the "Scheme").

2. The Learned Counsel for the Applicant Companies submits that the First Applicant Company has been engaged in the business of acquiring, constructing, owning, running, and managing and operating hotels, motels, holiday camps, guest houses, restaurants, rest rooms, resort, canteens, food court etc. and the Second Applicant Company is engaged in the business of managing and operating food and beverage outlets plus lounges at various airports and railway stations.
3. The Learned Counsel for the Applicant Companies submits that the Board of Directors of the Applicant Companies in their respective meetings held on 06 April 2024 have approved the Scheme. The Board Resolution approving the Scheme for the Applicant Companies was annexed as an “*Annexure D and Annexure E*” from page nos. 322 to 326 to the Joint Company Scheme Application.
4. As per clause 2 of the Scheme, pursuant to the amalgamation, consideration will be issued in the form of equity shares issued by the Transferee Company to the shareholders of the Transferor Company, and the shares held by the Transferor Company in the Transferee Company shall be cancelled.
5. The Learned Counsel for the Applicant Companies submits that Appointed Date for merger of First Applicant Company/Transferor

Company into the Second Applicant Company /Transferee Company is the same as the Effective Date.

6. That the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies as on date of filing of application is as under:

First Applicant Company:

Particulars	Amount (in Rs)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
9,471 Equity Shares of Rs. 10/- each	94,710
TOTAL	94,710

Second Applicant Company:

Particulars	Amount (in Rs)
<u>Authorised Share Capital*</u>	
6,000,000 Equity shares of Rs. 10/- each of Class A	60,000,000
TOTAL	60,000,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	

Particulars	Amount (in Rs)
3,872,926 Equity shares of Rs. 10/- each	38,729,260
TOTAL	38,729,260

7. The rationale for the Scheme is as follows:

- 1.1. *The Transferor Company and the Transferee Company belong to the same promoter group wherein the Transferor Company holds 51% of the paid-up capital of the Transferee Company.*
- 1.2. *Presently, the Transferee Company has future business prospects of opening new outlets at airports, roads, highways, joint ventures, overseas expansions, etc... This may require the company to set up various entities and cluster them into verticals and thereafter all the verticals gets consolidated into Transferee Company. Accordingly, the Transferee Company may be required to incorporate new subsidiaries and step-down subsidiaries frequently to start new projects wherein a land owner or joint developer or financial investor or all can be brought in as a partner. In this regard, the proviso to clause (87) of Section 2 of the Companies Act, 2013 and the Companies (Restrictions on number of layers) Rules, 2017 were notified on 20 September 2017. The Rules provide that no company (subject to certain exceptions) shall have more than two layers of subsidiaries. This*

will lead to inflexibility for the Transferee Company to conduct their business. Hence, from a business perspective it shall be imperative to eliminate one layer so that Transferee Company can operate their businesses through subsidiaries and step-down subsidiaries.

1.3. The group is currently undergoing internal restructuring for the purpose of simplification of the group structure and legal entity rationalization. In this regard, the board has decided to merge the Transferor Company into the Transferee Company in order to remove unnecessary layers in the group structure.

1.4. In order to achieve the rationale stated above and to ensure that the pre-scheme and post scheme shareholding between the promoter group effectively remains the same, it is proposed that the Transferor Company shall dispose of all the investments other than investments in the Transferee Company before the Appointed Date.

1.5. The amalgamation of the Transferor Company with the Transferee Company would inter alia also have the following benefits:

- simplified and streamlined corporate structure, to grow the business by eliminating duplicative communication and burdensome co-ordination efforts across multiple entities;*
- reduction in number of legal entities in the group;*

- *flexibility in operating business through subsidiaries and step-down subsidiaries by eliminating one layer from the group structure; and*
- *post the amalgamation of the Transferor Company with the Transferee Company, the Transferor Company will be dissolved. Consequently, there would be lesser regulatory and legal compliance obligations including accounting, reporting requirements, statutory and internal audit requirements, tax filings, company law requirements, etc. and therefore reduction in administrative costs.*

Dispensation for shareholders meeting

8. The Learned Counsel for the Applicant Companies submits that as regards the Transferor Company, there are 2 (two) Equity Shareholders in the First Applicant Company /Transferor Company. Both the Shareholders have provided their consent affidavit(s) to the scheme and to dispense from convening and conducting the Meeting of the Equity Shareholders of the Transferor Company, which was annexed as an ***“Annexure I1 and Annexure I2”*** from page nos. 367 to 373 to the Joint Company Scheme Application.
9. The Learned Counsel for the Applicant Companies submits that as regards the Second Applicant Company / Transferee Company, there are 2 (Two) Equity Shareholders in the Transferee Company. Both the Shareholders have provided their consent affidavit(s) to the scheme and

to dispense from convening and conducting the Meeting of the Equity Shareholders of the Transferee Company which was annexed as an “Annexure N1 and Annexure N2” from page nos. 385 to 395 to the Joint Company Scheme Application.

10. Based on the above, the Meeting of the Equity Shareholders of the First Applicant Company and Second Applicant Company is hereby dispensed with.

Dispensation for Secured Creditors meeting

11. There are no Secured Creditors in the First Applicant Company and a certificate from a Chartered Accountant confirming the same was annexed as “**Annexure J**” from page nos. 374 to 375 to the Joint Company Scheme Application. As regards the Second Applicant Company / Transferee Company is concerned, there is four (4) secured creditors of total value of Rs. 24,12,64,600/- as on 31 March 2024. All the Secured Creditors have provided the consent affidavit to the scheme and to dispense from convening and conducting the meeting of the secured creditors which was annexed and marked as “Annexure P1 to Annexure P4” from page nos. 399 to 414 to the Joint Company Scheme Application. Accordingly, the Meeting of the Secured Creditors of the Second Applicant Company is hereby dispensed with.

Dispensation for Unsecured Creditors meeting

12. There are two (2) Unsecured Creditors of total value of Rs. 16,33,00,000/- of the First Applicant Company / Transferor Company. Unsecured creditors of Rs. 16,32,00,000/- representing 99.93% of the total value of Unsecured creditors of the First Applicant Company have provided their consent affidavit to the scheme and to dispense from convening and conducting the Meeting of the Unsecured creditors of the First Applicant Company which was Annexed as **“Annexure L”** from page nos. 378 to 381 to the Joint Company Scheme Application. Accordingly, the Meeting of the Unsecured Creditors of the First Applicant Company is hereby dispensed with.
13. As regards the Transferee Company / Second Applicant Company is concerned, there are Three Hundred and Eighty-Six (386) Unsecured Creditors having aggregate value of Rs. 80,36,40,998/- of the Second Applicant Company / Transferee Company. Unsecured creditors of Rs. 74,53,06,102/- representing 92.74% of the total value of Unsecured creditors of the Second Applicant Company have provided their consent affidavits to the scheme and to dispense from convening and conducting the Meeting of the Unsecured creditors of the Second Applicant Company which was Annexed as **“Annexure R1 to Annexure R14”** from page nos. 457 to 511 to the Joint Company

Scheme Application. Accordingly, the Meeting of the Unsecured Creditors of the Second Applicant Company is hereby dispensed with.

14. The Applicant Companies are directed to serve notice of the present Scheme of Amalgamation (Merger by Absorption) on –

- (i) the Regional Director (Western region), Ministry of Corporate Affairs, Mumbai;
- (ii) Registrar of Companies, Maharashtra, Mumbai;
- (iii) Income Tax Authority within whose jurisdiction the First Applicant Company and the Second Applicant Company is assessed to tax;
- (iv) the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Pr. CCIT, Mumbai, Address: - 3 Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [E-mail: Mumbai.pccit@incometax.gov.in];
- (v) Office of Goods and Service Tax Department within whose jurisdiction the First Applicant Company and the Second Applicant Company is assessed; and
- (vi) Official Liquidator, High Court, Bombay (by the Transferor Company, as applicable)

pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme.

15. The Applicant Companies shall host the notices along with a copy of the Scheme on their respective websites, if any.
16. The Applicant Companies to file Affidavit of Service to report to this Tribunal that the direction regarding the issue of notices have been duly complied with as per the applicable Rules of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
MEMBER (JUDICIAL)