

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

CA(CAA)/01/KOB/2024

*(Under Sections 230-232 of the Companies Act,
2013 read with Companies (Compromise,
Arrangements and Amalgamations) Rule, 2016)*

*In the matter of scheme of arrangement in
the nature of Amalgamation of:*

**BUMERIC CORE INVESTMENTS PRIVATE
LIMITED**

MEMO OF PARTIES:

**BUIMERC CORE INVESTMENTS PRIVATE
LIMITED,**

CIN: U74900KL2008PTC023545,

Having its registered office at 50/200, 'Isha
Kripa' Vyttila - Pettah Road, Poonithura P.O.,
Emakulam, Kerala, 682 038

**... Applicant No: 1/
Transferee Company**

&

BUIMERC INVESTMENTS PRIVATE LIMITED,

CIN: U74999KL2017FTC051378,

Having its registered office at 50/200, 'Isha Kripa' Vyttila – Pettah Road, Poonithura P.O., Ernakulam Kerala 682 038.

... Applicant No: 2/

Transferor Company No. 1

&

VISHRAM HOTELS AND TOURISM PRIVATE LIMITED,

CIN: U55101KL2007PTC021257,

Having its registered office at 50/200, 'Isha Kripa' Vyttila - Pettah Road, Poonithura P.O., Ernakulam Kerala 682 038.

... Applicant No: 3/

Transferor Company No. 2

Order delivered on: 09.02.2024

Coram:

Hon'ble Member (Technical)

Shri. Shyam Babu Gautam

Hon'ble Member (Judicial)

TMT. Justice T Krishna Valli

Appearances:

For the Applicant Companies

: Mr. Bijoy P Pulipra, Advocate

ORDER

Per Coram

1. This joint Company Application bearing No. **CA(CAA)/01/KOB/2024** has been filed by the Applicant Companies under Sections 230-232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, in relation to the Scheme of Amalgamation of Buimerc Investments Private Limited (Applicant no.02 / Transferor Company No. 01) and Vishram Hotels and Tourism Private Limited (Applicant no.03/ Transferor Company No.02) with Buimerc Core Investments Private Limited (Applicant No.01/Transferee Company).
2. The Transferor Companies are proposed to be amalgamated with the Transferee Company from the Appointed Date, viz 01st April 2023 in the manner and on the terms and conditions stated in the said Scheme of Amalgamation.
3. Affidavits in support of the application is sworn for and on behalf of the applicant companies by one Mr. Balachandran Rajamony being the authorized signatory.
4. The Registered Office of the Applicant Companies are situated in the State of Kerala and, therefore, they are within the jurisdiction of this Hon'ble Tribunal.
5. The object of this Application is for the approval of the Scheme of Amalgamation and to obtain the sanction of this Hon'ble Tribunal to

convene or to dispense with the requirement of calling of, as the case may be, a meeting of the creditors or class of creditors to be called, held and conducted in such manner as the Tribunal directs; and to convene, or dispense with the requirement to convene, as the case may be, the meeting of the members or class of members, wherein and whereunder Buimerc Investments Private Limited (the Transferor Company No.1) and Vishram Hotels and Tourism Private Limited (the Transferor Company No.2) are proposed to be merged with Buimerc Core Investments Private Limited (the Transferee Company).

6. It is submitted by the Applicants that they have ensured that the scheme shall not in any manner be prejudicial to the interests of the concerned shareholders and creditors or the general public at large. It is also submitted that the merger of the Transferor Companies with the Transferee Company would inter alia have enhanced overall benefits which are stated by the applicant companies in the instant application filed herein.
7. Each of the Applicants has obtained No Objection Certificates from 100% of its Shareholders to the Scheme of Amalgamation and for dispensing with the meeting of member or class of members of the Applicants.
8. The Transferor Companies have no Creditors whatsoever and the Transferee Company had obtained No Objection Certificates from 100% of its Secured Creditors and 99.99% of its Unsecured Creditors for dispensing with the meeting of creditors.

9. **The Transferee Company:** Buimerc Core Investments Private Limited (hereinafter referred to as "BCI" or Transferee Company) is an unlisted Private Limited Company incorporated on 12th December 2008 under the Companies Act, 1956 with CIN: U74900KL2008PTC023545 and having its registered office at 50/200, 'Isha Kripa' Vyttila - Pettah Road, Poonithura P.O., Ernakulam, Kerala- 682038. The Transferee Company is inter alia engaged in the business to carry on and undertake the business as a Core Investment Company as per guidelines issued by the Reserve Bank of India ("RBI") from time to time and the Company will comply with the directions issued by RBI as applicable to Core Investment Companies. However, the Transferee Company is not regulated by RBI as the same is an unregistered CIC. The Certificate of Incorporation and the Copy of the Memorandum of Association of the Transferee Company are attached as **Annexure A-1**.
10. The Authorized, Issued, Subscribed and Paid-up share capital of the **Transferee Company** as of 30th March 2023 are as under:

Authorised Share Capital	
50,00,000 Equity Shares of Rs.10/- each	Rs. 5,00,00,000 (Rupees Five Crore Only)
77,00,000, 0.5% Compulsorily Convertible Preference shares of Rs. 10/- each	Rs. 7,70,00,000 (Rupees Seven Crore Seventy Lakh Only)
TOTAL	Rs. 12,70,00,000 (Rupees Twelve Crore Seventy Lakh Only)

Issued, Subscribed and Paid-Up		
Capital:		
20,00,000 Equity Shares of Rs.10/- each		Rs. 2,00,00,000/- (Rupees Two Crore Only)
76,99,916, 0.5% Compulsorily Convertible Preference shares of Rs. 10/- each		Rs. 7,69,99,160/- (Rupees Seven Crore Sixty-Nine Lakh Ninety-Nine Thousand One Hundred and Sixty Only)
TOTAL AS ON 30.03.2023		Rs. 9,69,99,160 (Rupees Nine Crore Sixty-Nine Lakh Ninety-Nine Thousand One Hundred and Sixty)

11. The Transferor Company No. 1: Buimerc Investments Private Limited (hereinafter referred to as "BIPL" or Transferor Company No. 1) is an unlisted Private Limited Company incorporated on 13th December 2017 under the Companies Act, 2013 with CIN: U74999KL2017FTC051378 and having its registered office at 50/200, 'Isha Kripa' Vyttila - Pettah Road, Poonithura P.O., Ernakulam Kerala-682038. The Transferor Company no. 1 is inter alia engaged to carry on the business or businesses of an investment company, not accepting public deposit and not having a public interface and to buy, underwrite and to invest in and acquire various investments and to carry out such activity whether in India or elsewhere in any manner subject to the rules and regulations issued by RBI and such other Government Authorities from time to time. However, Transferor Company No.1 has not obtained Registration from the Reserve Bank of India (RBI) to

operate as a Non- Banking Finance Company ("NBFC") and hence is not regulated by RBI. The Certificate of Incorporation and the Copy of the Memorandum of Association of the Transferor Company No. 1 are attached as **Annexure A-2**.

12. The Authorized, Issued, Subscribed and Paid-up share capital of the **Transferor Company No. 1** as of 31st March 2023 are as under:

Particulars	Amount
Authorised share capital	
25,00,000 Equity Shares of Rs.10/- each	Rs. 2,50,00,000 (Rupees Two Crore Fifty Lakh Only)
TOTAL	Rs. 2,50,00,000 (Rupees Two Crore Fifty Lakh Only)
Issued, subscribed and paid-up share capital:	
22,50,000 Equity Shares of Rs.10/- each	Rs. 2,25,00,000 (Rupees Two Crore Twenty-Five Lakh Only)
TOTAL AS ON 31.03.2023	Rs. 2,25,00,000 (Rupees Two Crore Twenty-Five Lakh Only)

13. **The Transferor Company No. 2:** Vishram Hotels and Tourism Private Limited (hereinafter referred to as "VIITL" or Transferor Company No. 2) is an unlisted Private Limited Company incorporated on 01st October 2007 under the Companies Act, 1956 with CIN: U55101KL2007PTC021257 and having its registered office at 50/200,

'Isha Kripa' Vyttila - Pettah Road, Poonithura P.O., Ernakulam Kerala 682038. Transferor Company No. 2 is inter alia engaged in India and abroad to carry on the business of (1) Owning, operating, and running buildings and premises to and for the purpose of budget hotels guest houses restaurants. food courts and arrange travel and promote tourism subject to the rules and regulations issued by the Reserve Bank of India or any such other Government authorities from time to time. (2) To carry in India or else here the business of Infrastructure development which includes but not limited to construction, development, upgradation, repair, operation and maintenance of roads, highways, bypasses, bridges, railways, ports, airport, seaports, dredging, Information Technology parks/facilities, trade fairs, exhibition centres, malls, multiplexes, hotels, buildings, public utilities, inter changers, telecommunications, Special Economic Zones, food parks, water supply, residential/commercial complexes, real estate, mass housing, inland waterways, pipeline and related infrastructure works and to act as Consultants and Developers on the matters connected with properties of all kinds and description and acquire by purchase or lease ownership of open land, agricultural land, urban buildings including residential houses, flats, blocks or tenements and construct building of all types on own account or for leasing out or selling for promoting house projects, hotels and other commercial, residential and all other type of buildings. The Certificate of Incorporation and the Copy of the Memorandum of Association of the Transferor Company No. 2 are attached as **Annexure A-3**.

14. The Authorized, Issued, Subscribed and Paid-up share capital of the **Transferor Company No. 2** as of 31st March 2023 are as under:

Particulars	Amount in Rs
Authorised share capital 2,00,000 Equity Shares of Rs.100/- each	Rs. 2,00,00,000 (Rupees Two Crore Only)
TOTAL	Rs. 2,00,00,000 (Rupees Two Crore Only)
Issued, subscribed and paid-up share capital: 1,51,000 Equity Shares of Rs.100/- each	Rs. 1,51,00,000 (Rupees One Crore Fifty-One Lakh Only)
TOTAL AS ON 31.03.2023	Rs. 1,51,00,000 (Rupees One Crore Fifty-One Lakh Only)

15. The authorized share capital of the Transferor company no.2 was increased from RS.2,00,00,000/- (Rupees Two Crore) to RS.6,60,00,000/- (Rupees Six Crore and Sixty Lakhs) by a resolution passed in a meeting of the members of the company held on 07th July 2023 and the same was filed in Form No. SH-7 before the ROC, Kerala. This Transferor Company had converted 5,05,000 (Five Lakh Five Thousand) 0% Compulsorily Convertible Debentures of Rs. 100 (Rupees Hundred Only) and allotted 364077 Equity Shares to the Transferee Company and 89895 Equity Shares to Mr. Siddharth

Balachandran at a price of Rs. 11.24 per share, which includes a premium of Rs. 1 1.24 per share.

16. The Audited (FY 2022-2023), as well as the Unaudited (01.04.2023 to 30.09.2023) Financial Statements of Transferor Company No. 1, are annexed as **Annexure A-9** and **Annexure A-10** respectively; of Transferor Company No. 2 are annexed as **Annexure A-12** and **Annexure A-13** respectively; and of Transferor Company No. 2 are annexed as **Annexure A-18** and **Annexure A-19** respectively.
17. Transferee Company, Transferor Company No.1 and Transferor Company No.2 are companies under common control. Transferor Company No.1 and the Transferee Company are the wholly owned subsidiaries of "*Buimerc Corporation Limited*," a Company (Licence No CL3531) registered under Companies Law, Dubai International Financial Centre Law No. 5 of 2015 having its registered office at OT-14-37, Level 37, Central Park Offices, Dubai International Financial Centre. PO Box 261285, Dubai, United Arab Emirates ("*Ultimate Holding Company*"). Transferor Company No. 2 is the wholly owned subsidiary of the Transferee Company.
18. It is submitted that Transferor Company No.1 was incorporated in the year 2017 to carry on the business of a Non-Banking Finance Company (NBFC) and had commenced relevant procedures for registration of RBI as per statutory requirements, which have not been obtained to date. No activity whatsoever has therefore been undertaken in Transferor Company No. 1 pending the RBI approval. Meanwhile, with

the changed market scenario, the board of directors of the Company had decided not to pursue this registration further, since it does not see much potential for this envisaged NBFC business model in the current and near-future environment.

19. It is submitted that Transferor Company No. 2 was incorporated in the year 2007 with the main object of acquiring and running a hotel business. However, the Company could operate the said business only for a short while and had to stop its business activities due to its non-viability. Thereafter, the Company remained dormant for a long time, with no activities whatsoever. Presently, the Company's revenue is from the income generated from interest on the Bank Fixed Deposits created out of the share capital of the promotor, and the sub-leasing of its rented premises. Since the stand-alone potential of this business is not seen to be viable going forward, it has been decided to merge the company and its activity into the Parent Company itself, as a rationalization measure.
20. It is stated that the independent operations of the Transferor Companies and Transferee Company led to the incurrence of significant costs and the merger would enable economies of scale thereby achieving cost savings and business and administrative synergies. The merger will thus eliminate a multi-layered structure and reduce managerial overlaps, which are necessarily involved in running multiple entities and prevent cost duplication that can erode financial efficiencies of a holding structure and resultant operations would be substantially cost-efficient. This Scheme would result in a

simplified corporate structure of the Transferee Company and its business. Thereby leading to more efficient utilisation of capital and the creation of a consolidated base for the future growth of the Transferee Company.

21. It is submitted that the Board of Directors of the Transferor Companies and the Board of Directors of the Transferee Company have considered and proposed the amalgamation of the entire undertaking and business of the Transferor Companies with the Transferee Company to benefit the stakeholders of the said Companies.
22. Accordingly, the Board of Directors of both the Transferor Companies and Transferee Company have formulated this Scheme of Amalgamation for the transfer and vesting of the entire Undertaking (as defined hereinafter) and business of the Transferor Companies with and into the Transferee Company under the provisions of Section 230 to Section 232 and other relevant provisions of the Companies Act and Rules there under.
23. The meeting of the Board of Directors of the Ultimate Holding Company also consented to the Scheme of Amalgamation and passed the resolution permitting the amalgamation of the entities and cancellation of the shares of Transferee Companies under the Scheme of amalgamation. Notwithstanding anything contained in the Scheme, the Transferee Company shall comply with the Master Direction - Core Investment Companies (Reserve Bank) Directions, 2016 issued by the

RBI and such other acts, rules and regulations as may apply to the Core Investment Companies.

24. The copy of the extract of minutes of the meeting of the Board of Directors of the Transferor Company No.1 held on 21.11.2023 is annexed as **Annexure A-5**; of the Transferor Company No.2 held on 21.11.2023 is annexed as **Annexure A-6**; of the Transferee Company held on 21.11.2023 is annexed as **Annexure A-7**; and of the Ultimate Holding Company held on 01.11.2023 is annexed as **Annexure A-8**.
25. The Valuation Report of a Registered Valuer has been obtained to arrive at the Share Swap Ratio. According to the arrangement between the Ultimate Holding Company, Transferee Company and the Transferor Companies as mentioned above, the entire paid-up share capital of the Transferor Companies shall stand cancelled without any further application, acts, or deeds and there would be no issue of shares of the Transferee Company to the shareholders of the Transferor Companies, thereby making the Share Swap Ratio obtained in the Valuation Report as irrelevant.
26. The Independent Auditors Certificate on Statement of Assets and Liabilities of Transferor Company No. 1 as on 30-09-2023 is attached as **Annexure A-34**, of the Transferor Company No. 2 as on 30-09-2023 is attached as **Annexure A-35**, and of the Transferee Company as on 30-09-2023 is attached as **Annexure A-36**.
27. As already stated above, the Applicant companies are under common management and control. There is no allotment of shares in the

Transferee Company resultant of the amalgamation and both the Companies as the Ultimate holding company had consented to the cancellation of the shares in Transferor Companies. There are no outside shareholders in the Company. Given the same, the Applicant companies pray for the dispensation of the requirement to convene the meeting of the members of the applicant companies. The Transferee Company had obtained the No Objection letters from the Equity shareholders and Preference shareholders, holding 100% of the Equity shares and a letter confirming the receipt of the NOC is attached along with relevant annexures annexed as **Annexure A-38**. The Transferor Company no. 1 had obtained the No Objection Letter from the Equity shareholders, holding 100% of the Equity shares and a letter confirming the receipt of the NOC is attached along with relevant annexures annexed as **Annexure A-39**. The Transferor Company no. 2 had obtained the No Objection Letter from the Equity shareholders, holding 100% of the Equity shares and a letter confirming the receipt of the NOC is attached along with relevant annexures annexed as **Annexure A-40**. In view of the same, the Applicant companies pray for the dispensation of the requirement to convene the meeting of the creditors of the Transferor companies.

28. The Transferor Companies have no creditors and the Transferee Company had obtained the No Objection Letters for dispensing with the meeting of the Creditors from four Secured creditors banks constituting 100% of the total debt in value and Unsecured Creditor

holding 99.99% of the total debt in value which is attached as **Annexure A- 32(Colly)** and **A-33(Colly)**.

29. It is submitted that the company is regular in paying all the dues promptly and fully compliant with the obligations towards all creditors including the government.
30. Heard the arguments advanced by the Learned Counsel for the Applicant Companies, Mr. Bijoy Pulipra, and thoroughly perused the whole documents attached along with the Application.
31. Under Section 230(9) of the Companies Act, 2013, the Tribunal may dispense with the calling of a meeting of Creditor or class of Creditors where such Creditor or class of Creditors, having at least 90% value, agree and confirm, by way of affidavit, to the Scheme of Compromise or Arrangement.
32. As stated in the above paragraphs, the Transferor Companies have no creditors and the Transferee Company had obtained the No Objection letters for dispensing with the meeting of the Creditors from Secured creditors constituting 100% of the total debt in value and Unsecured Creditor holding 99.99% of the total debt in value.
33. Given the above, this Bench is also of the view that calling the meetings of the members/shareholders and the secured and unsecured Creditors of the Transferor Companies and Transferee Company as envisaged under Section 230(1) of the Companies Act, 2013 is not necessary and will not serve any purpose, even if called.

34. Accordingly, the **following directions are given:**

- i. The meetings of the members/shareholders, all secured and unsecured creditors of the Transferee Company and both the Transferor Companies under Section 230(1) of the Companies Act 2013, for consideration and approval of the Scheme for Merger of M/s. Buimerc Investments Private Limited, M/s. Vishram Hotels and Tourism Private Limited with M/s. Buimerc Core Investments Private Limited and the publication of notice of meetings in the newspapers are hereby dispensed with as per the provisions of Section 230(9) of the Act.
- ii. The notices are to be served to the sectoral regulators/authorities under Section 230(5) of the Companies Act, 2013 as aforesaid shall contain all the disclosures as mentioned in Rule 6(3) of the Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, irrespective of the fact that meetings have been dispensed with.
- iii. All the applicant companies shall serve notices upon the Regional Director, Ministry of Corporate Affairs; Registrar of Companies; Income Tax Department within whose jurisdiction the assessments of the Applicant Companies are made; the Official Liquidator; the Reserve Bank of India; according to Section 230(5) of the Companies Act, 2013 read with Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received from the aforesaid

authorities within 30 days of the date of receipt of the notice, it would be presumed that such authorities have no objection to the proposed Scheme of Amalgamation.

- iv. The applicant companies shall file an affidavit proving service of notices and compliance reports of the above-said directions contained herein with the Registry of this Tribunal.
- v. Failure to comply with the above Orders, this order for dispensing with the meeting of the Members/Shareholders, secured and unsecured creditors of the applicant companies shall stand cancelled automatically.
- vi. The Applicant Companies are directed to present a Petition to this Tribunal in Form No. CAA-5 for sanction of the Scheme of Amalgamation of M/s. Buimerc Investments Private Limited and M/s. Vishram Hotels and Tourism Private Limited with M/s. Buimerc Core Investments Private Limited.
- vii. All the aforesaid directions are to be complied with by the Applicants strictly by following the applicable laws including forms and formats contained in the Companies (Compromises, Arrangements, Amalgamations) Rules, 2016 as well as the provisions of the Companies Act, 2013.

35. Accordingly, this Company Application bearing No. CA(CAA)/01/KOB/2024 stands allowed and disposed of on the aforesaid terms.

36. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their counsel for information and to take necessary steps.

37. Let the certified copy of this order be issued, if applied for, upon compliance with requisite formalities.

38. File be consigned to records.

SHYAM BABU GAUTAM

(MEMBER TECHNICAL)

T. KRISHNA VALLI

(MEMBER JUDICIAL)

Signed on this the 9th day of February 2024

Leona/LRA