

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, (COURT NO.-I)  
KOLKATA**

Company Application (CAA) No. 217/KB/2023

*An application under Section 230 to 232 read with Section 66 and other applicable provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, and other applicable provisions of the law.*

**IN THE MATTER OF:**

**A Scheme of Arrangement of (First Motion):**

**Speciality Restaurants Limited**, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. L55101WB1999PLC090672; and its registered office at "Uniworth House", 3A Gurusaday Road, Kolkata, West Bengal -700019.

.....**The First Applicant Company /Demerged Company**

**And**

**Speciality Hotels India Private Limited**, a company incorporated under the Companies Act, 1956 and being a Company within the meaning of the Companies Act, 2013, having Corporate Identification No. U55100WB1997PTC264485; and its registered office at "Uniworth House", 3A Gurusaday Road, Kolkata, West Bengal -700019.

... **The Second Applicant Company /Resulting Company**

1. **Speciality Restaurants Limited**
2. **Speciality Hotels India Private Limited**

.... **Applicants**

**Date of Pronouncement: 05.04.2024**

**Coram:**

**Shri Rohit Kapoor, Member (Judicial)**

**Shri Balraj Joshi, Member (Technical)**



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<b>SL.No.</b>	<b>Name of the Applicant Companies</b>	<b>Equity Shareholders</b>	<b>Secured Creditors</b>	<b>Unsecured Creditors</b>
1	Speciality Restaurants Limited	23744	NIL	1147
2	Speciality Hotels India Private Limited	7	1	3

4. Ld. Authorised Representative appearing for the Applicants submits that **100%** of the Equity Shareholders of Applicant Companies have already given their consent to the Scheme in writing by the way of affidavits for the approval of the proposed Scheme of Arrangement which are annexed with the Company Petition being- **Annexure- 'J'** in Volume II and Volume III at **Page No. 202-287 (Resulting Company)**
5. Ld. Authorised Representative appearing for the Applicants submits that there are no secured but 1 unsecured creditor (Resulting company of the aggregate value of Rs 40,000) for Resulting Company. The Chartered Accountant of the resulting company has certified that there are no secured creditors as is annexed with this petition being **Annexure K** in Volume III at **Page No. 289-290**, and in relation of the unsecured creditors in annexed as in **Annexure M** in Volume III at **Page No. 291-293**.
6. The certificate by the Independent Auditor's in respect of the Company verifying conformity with Accounting Standard under Section 133 of the Companies Act 2013 is annexed with the Company Petition being- **Annexure- 'P'** in Volume II at **Page No. 325-326**.
7. The Ld. Authorised Representative further submits that the Applicants now seek admission of the instant petition presented by them for sanction of the Scheme of Arrangement. Dispensation of such meetings to consider the Scheme is sought accordingly.
8. The Ld. Authorised Representative for the Applicants further submits that the present Scheme is an arrangement between the Applicant Companies and none of the members, shareholders, and creditors will be affected by the Scheme.

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9. Upon perusing the records and documents in the instant proceedings and considering the submissions made on behalf of the Transferor Company/Applicant Company, we allow the instant application and make the following orders:
- a. **Meeting(s) to be held:** Meeting of the Equity Shareholders of the Demerged Company shall be convened and held within 45 days of the issue of this order **or any adjourned dates thereof during normal business hours** for the purpose of considering, and, if though fit, approving, with or without modification(s), the proposed Scheme, in compliance with the applicable provisions of the Companies Act, 2013 and the Companies (Management and Administration) Rules, 2014, read with applicable circulars issued by Ministry of Corporate Affairs from time to time.
  - b. **Mode of the meeting:** The meeting shall be held physically or virtually depending on the feasibility thereof at the venue to be given in the notice of meeting depending on availability.
  - c. **Notice for the meeting:**
    - i. **Advertisement:** As per Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, at least 30 (thirty) clear days before the meeting to be held, as aforesaid, an advertisement of the notice of meeting be published once each in the **“Business Standard”** in English and **“Aajkal”** in Bengali, both circulated in West Bengal for the Applicant Company. The notice of the meeting shall also be placed on the website of the Demerged Company. The publication shall indicate the time within which the copies of the Scheme shall be made available to the concerned persons free of charge from the Registered Office of the Demerged Company. The publication shall also indicate that the statement required to be furnished pursuant to Section 102 read with Section 230-232 of the Companies Act, 2013 can be obtained free of charge at the registered office of the Demerged Company in accordance with the second proviso to sub-section (3) of Section 230 of the Companies Act, 2013 and Rule 7 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

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- ii. **Individual notices:** At least 30 (thirty) clear days before the aforesaid meeting of the Equity Shareholders of the Applicant Company be held, as aforesaid, a notice convening the said meeting(s), indicating the date and time as aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent pursuant to Section 102 read with Sections 230-232 of the Companies Act, 2013, shall be sent to each of the Equity Shareholders of the Demerged Company as per Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, in hard copy through hand delivery through special messenger or by speed post or courier to addresses of the Equity Shareholders duly registered with the Registrar and Transfer Agent/Applicant Company.
- d. **Chairperson: Ms. Kiran Sharma, Advocate** (having mobile no.: 9883328895) shall be appointed as the Chairperson for the aforesaid meeting of the Equity Shareholders of the Applicant Company and shall be paid a consolidated sum of Rs.85000/- as remuneration for acting as Chairperson.
- e. **Scrutinizer: Ms. Sneha Khaitan, PCS** (having mobile no.: 9836072055) shall be appointed as the Scrutinizer for the aforesaid meeting of the Equity Shareholders of the Applicant Company to be held. and shall be paid a consolidated sum of Rs.75,000/- towards remuneration for acting as Scrutinizer.
- f. **Quorum and Attendance:** That the quorum of the aforesaid meeting of the Equity Shareholders of the Demerged Company shall be as prescribed under Section 103 of the Companies Act, 2013. For the meeting to be held physically, only attendance of such persons physically present at the venue shall be counted for the purpose of reckoning the quorum under Section 103 of the Companies Act, 2013. In case the required quorum as stated above is not present at the commencement of the meeting, the meeting shall be adjourned by 30 (thirty) minutes and thereafter, the persons/shareholders present shall be deemed to constitute the quorum.

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- g. **Mode of Voting:** Voting in the meeting shall be conducted by postal ballot/by show of hands since the meeting would be held physically.
- h. **Cut-off date:** The cut-off date for determining the eligibility of equity shareholders who will be entitled to vote and value of their votes shall be as on 30.10.2023 and the value of the votes cast shall be reckoned and scrutinized with reference to the said date. The voting rights of the Equity Shareholders of the Demerged Company shall be in proportion to their share of the paid-up Equity Share Capital of the Demerged Company as on the cut-off date and as per the respective Register of Members of the Applicant Company. Further, where the entries in the books/ register/ depository records are disputed, the Chairperson of the meeting shall determine the voting rights for the purposes of the meeting of Equity Shareholders and his decision in that behalf would be final.
- i. **Voting procedure:** The voting procedure at the meeting will be conducted through postal ballot/by show of hands.
- j. **Proxies:** A member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of himself and the proxy need not be a member of the Demerged Company. Voting in case of body corporate, and voting by authorised representatives shall be permitted, provided the prescribed form/authorization is filed with the Demerged Company no later than 48 hours before the commencement of the aforesaid meeting as required under Rule 10 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- k. **Voting Rights:** The voting rights of the equity shareholders of the Demerged Company shall be in proportion to their share of the paid-up equity share capital of the Demerged Company as on the cut-off date and in accordance with the Register of Members or index of beneficial owners of the Demerged Company. Further, where the entries in the books / register / depository records are disputed, the Chairperson of the meeting shall determine the voting rights for the purpose of the aforesaid meeting of the Equity Shareholders and his decision in that behalf would be final.

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- l. The Chairperson appointed for the aforesaid meeting of the Demerged Company, or any other person authorized by the Chairperson shall issue notices of the meeting of the Equity Shareholders referred to above and shall have all powers as per the Articles of Association of the Applicant Company and also under the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, as may be applicable, in relation to the conduct of the meeting, including for deciding procedural questions that may arise at the meeting or at any adjournments thereof or any other matter including, an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
- m. **Scrutinizer's Report/Declaration of Results:** The votes cast by the equity shareholders shall be scrutinized by the Scrutinizer. The Scrutinizer shall prepare and submit the Scrutinizer's Report to the Chairperson of the meeting. The Chairperson shall declare the results of the meeting after submission of the report of the Scrutinizer.
- n. The resolution for approval of the Scheme put to a meeting shall be deemed to have been duly passed on the date of such meeting under the provisions of Section 230(1) read with Section 232(1) of the Companies Act, 2013 and other applicable laws.
- o. The value of each equity shareholder shall be in accordance with the books and records of the Demerged Company and, where entries in the books are disputed, the Chairperson shall determine the value for purposes of the said meeting.
- p. The Chairperson shall report to this Tribunal, the results of the said meeting within four (4) weeks of conclusion of the said meeting. The said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- q. The applicant to serve a notice under Section 230(5) of the Companies Act, 2013 along with all accompanying documents, including a copy of the aforesaid Scheme and statement under the provisions of the Companies Act, 2013, shall also be served on:

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- i. Regional Director, Eastern Region, Ministry of Corporate Affairs,  
Kolkata;
- ii. Registrar of Companies, West Bengal, Kolkata with whom the  
Applicants are registered.
- iii. Official Liquidator; High Court at Calcutta
- iv. SEBI & relevant stock exchange like BSE/NSE
- v. Income Tax Department having jurisdiction over the Applicants.
- vi. Other Sectoral authorities like GST etc. that are likely to be affected by  
the scheme.

These notices shall be sent by hand delivery through special messenger or by speed post and also by e-mail within two weeks from the date of receiving this order.

The notice shall specify that representation, if any, should be filed before this Tribunal within 30 days from the date of receipt of the notice with a copy of such representation being simultaneously sent to the Advocates/Authorized Representative of the said Demerged Company. If no such representation is received by the Tribunal within such period, it shall be presumed that such authorities have no representation to make on the said Scheme. Such notice shall be sent pursuant to Section 230(5) of the Companies Act, 2013 read with Rule 8(2) of the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 in Form No. CAA3 of the said Rules with necessary variations, incorporating the directions herein.

- r. The Applicant Companies shall file an affidavit of service, to report to this Tribunal that the directions regarding the issuance of notices have been duly complied with.

10. The Demerged Company to file an affidavit proving service of notices of meeting(s) and publication of advertisement and compliance of all directions contained herein at least a week before the meeting(s) to be held. Since the list of equity shareholders of the Transferor



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Company/Applicant Company, to whom the notice of the aforesaid meeting of the equity shareholders will be issued, is voluminous, the Transferor Company/Applicant Company is allowed to submit the said list with the Registry in a form of a compact disc/pen drive.

11. **Meetings Dispensed and Not Required:** In view of there being 100% consent of the Equity Shareholders of the Resulting Company the meeting of the Equity Shareholder of the Resulting Company for considering the Scheme is being dispensed with. In view of there being NIL secured creditors in the Demerged Company, the meeting of the secured creditors of the Demerged Company for considering the Scheme is not required. Further, in view of consent to the Scheme by the unsecured creditors of the Demerged Company, as the said unsecured creditors are merely trade creditors and in view of the fact that the assets of the demerged company are substantially greater than its liability, their meeting are also held to be dispensed with. As there are no secured creditors of the Resulting Company there is no requirement of any meeting
12. The application being **CA(CAA) No.217/KB/2023** is **disposed of** accordingly.
13. Connected Company Petition may be filed by the Petitioner within 6 weeks of this order.
14. Urgent Certified copy of the order may be issued, if applied for, upon compliance with all the requisite formalities.

**(Balraj Joshi)**  
**Member (Technical)**

**(Rohit Kapoor)**  
**Member (Judicial)**

**This order is pronounced on the 5<sup>th</sup> day of April, 2024**

A.J.S



DIVISION BENCH  
COURT - I

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NATIONAL COMPANY LAW TRIBUNAL  
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C.A.(CAA)/217(KB)2023  
MA(COMPANIES ACT)/9(KB)2024

CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE  
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 14<sup>TH</sup> MAY 2024

IN THE MATTER OF	SPECIALITY RESTAURANTS LIMITED
UNDER SECTION	SUB-SECTION (1) OF SECTION 66.SUB-SECTION (L) OF SECTION 230

**Appearances (via video conferencing/physically)**

Mr.Saurodip Banerjee, Adv. ] For the petitioner  
Ms.Sweta Mohanty,Adv. ]

**ORDER**

1. Ld. Counsel for the petitioner present.

**2. MA(COMPANIES ACT)/9(KB)2024.**

- i. This Miscellaneous Application has been filed under Rule 154 of the NCLT Rules 2016 seeking rectification of certain clerical and factual errors in the orders issued in the matter on 05/04/2024.
- ii. We have perused the sought amendments and accordingly following corrigendum to the order dated 05/04/2024 is hereby made:-
  - a. In Para-1 in the 5<sup>th</sup> line below the table , the words “ *are proposed to be amalgamated with the Transferee Company*” shall be replaced by “*propose to enter into an arrangement*”
  - b. In Para-4, the second line the order ‘*applicant companies*’ shall be replaced by “*Resulting Company*”.
  - c. In Para- 9(b), the following words shall be added:-  
“ *The meeting shall be held physically or virtually through VC/ OAVM as per relevant circulars of MCA depending on the feasibility thereof*”.
  - d. In Para-9(c)(ii), following words shall be added:-



*“ Notice convening the said meeting can also be served to Shareholders through email where emails IDs of shareholders are registered with NSDL/CDSL and as per relevant circulars of MCA”.*

e. In Para-9(g), the following words shall be added”-

*“ Voting in the Meeting shall be conducted by e-voting as per Companies Act and rules provided thereunder in the event meeting is held virtually.”*

f. In Para-9(h), in 3<sup>rd</sup> line, the words “ as on 30<sup>th</sup> October 2023 ” shall be replaced by “as per Companies Act and rules framed there under”.

g. In Para 9 (i), the followings words shall be added:-

*“ The voting procedure at the meeting shall be conducted through e-voting as per Companies Act and rules made thereunder in the event meeting is held virtually”.*

h. In Para 9 (j), the followings words shall be added:-

*“ Member is not entitled to appoint proxies if the proposed Meeting is held through VC/OAVM”.*

3. Rest of the order dated 05.04.2024 shall remain unchanged.

4. In views of the above, this Miscellaneous Application **MA(COMPANIES ACT)/9(KB)2024 in C.A.(CAA)/217(KB)2023** is allowed and disposed of.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**