(2012) 07 DEL CK 0178

In the Delhi High Court

Case No : Company Application No (M) 109 of 2012

Spank Hotels Private Limited APPELLANT

Vs

Lemon Tree Hotels Private Limited Company RESPONDENT

Date of Decision : 02-07-2012

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2012) 07 DEL CK 0178

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Mukesh Sukhija, for the Respondent

Final Decision : Allowed

Judgement

Indermeet Kaur, J.—This is a first motion joint Application under sections 391 & 394 of the Companies Act, 1956, in connection with the Scheme of Amalgamation of ''Spank Hotels Private Limited (Transferor Company) ''with'' Lemon Tree Hotels Private Limited (Transferee Company). A copy of the proposed Scheme of Amalgamation is filed along with the Application. The registered office of the Transferor and Transferee Company is situated within the National Capital Territory of Delhi and are within the jurisdiction of this Court.

2. Details with regard to the date of incorporation of Transferor Companies and Transferee Company, their authorized, issued, subscribed and paid up capital have been given in the Application.

3. Copies of the Memorandum and Articles of Association as well as the latest audited Annual Accounts for the year ended 31st March, 2011 of all the Applicant Companies have also been enclosed with the Application.

4. Learned Counsel for the Applicant Companies submitted that no proceedings under sections 235 to 251 of the Companies Act, 1956 are pending against any of the Applicant Companies as on the date of the present Application.

5. The proposed Scheme has been approved by the Board of Directors of all the Applicant Companies. Copies of the Board Resolutions have been filed along with the Application.

6. The status of the Shareholders, Secured and Un-secured Creditors of the Transferor and Transferee Companies and the consents obtained from them for the proposed Scheme is clearly apparent from the chart given in the application which is as below:

Particulars

The Transferor Company

The Transferee Company

No. of Equity Share holders

48

85

Consent Given

31(Consisting of 98.40% in value)

62(Consisting of 96.81% in value)

No. of Secured Creditors

3

9

Consent Given

All

8(Consisting of 99.96% in value)

No. of Un-secured Creditors

2

19

Consent Given

All

18

7. A prayer has been made for dispensation of the requirement of convening meetings of Shareholders and Creditors of the Transferor Companies and the Transferee Company.

8. In view of the written consents/NOC given, 31(Consisting of 98.40% in value)

out of 48 shareholders in the Transferor Company and 62(consisting of 96.81% in value) out of 85 shareholders in the Transferee Company the requirement of convening meetings of Shareholders of the Transferor Company and the Transferee Company are dispensed with.

9. In view of the written consents/ NOC given by all the un-secured creditors in the Transferor Company and 18 consents (Out of 19) of the Transferee Company the requirement of convening meetings of un-secured creditors of the in these companies were dispensed with. Further in view of the written consents/ NOC given by all the secured creditors in the Transferor Company and 8 (consisting of 99.96% in value) out of 9 secured creditors of the Transferee Company the requirement of convening meetings of secured creditors of the in these companies is also dispensed with.

10. The Application stands allowed in the aforesaid terms. Order Dasti.

