

**IN THE NATIONAL COMPANY LAW TRIBUNAL****DIVISION BENCH, DELHI****BENCH III****CAA-10/ND/2020**

IN THE MATTER OF:

UNDER SECTION 60 TO 62 OF THE LIMITED LIABILITY  
PARTNERSHIP ACT, 2008 AND LIMITED LIABILITY PARTNERSHIP  
RULES

**IN THE MATTER OF SCHEME OF AMALGAMATION****BETWEEN****Ocean View Holiday Homes LLP**

Having its registered office at:  
C-4/5, Lower Ground Floor  
Safdarjung Development Area  
New Delhi- 110016

....(*Transferor LLP 1/Applicant LLP NO. 1*)

**AND****Ocean View Suites LLP**

Having its registered office at:  
C-4/5, Lower Ground Floor  
Safdarjung Development Area  
New Delhi- 110016

....(*Transferor LLP 2/Applicant LLP NO. 2*)

**AND**

**White Pearl Villas LLP**

Having its registered office at:  
C-4/5, Lower Ground Floor  
Safdarjung Development Area  
Vivekanand Vihar  
New Delhi- 110016

....(Transferor LLP 3/Applicant LLP NO. 3)

AND

**Wind Shine Hospitality LLP**

Having its registered office at:  
C-4/5, Lower Ground Floor  
Safdarjung Development Area  
Vivekanand Vihar  
New Delhi- 110016

....(Transferor LLP 4/Applicant LLP NO. 4)

With

**Ocean View Cottages LLP**

Having its registered office at:  
C-4/5, Lower Ground Floor  
Safdarjung Development Area  
New Delhi- 110016

....(Transferee LLP /Applicant LLP NO. 5)

Order delivered on 8<sup>th</sup> February 2021

**CORAM**

**CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER  
(TECHNICAL)**

**Appearance:**

*For Applicant(s) : Mr. Sougat Sinha and Mr. Manoj Kumar*  
OCEAN VIEW COTTAGES LLP  
CAA -10/ND/2020

(Advocates)  
For RD & OL:

For I.T. : Mr. Deepak Anand, Mr. Vipul Agrawal (Advocates)

### ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

1. Under consideration is the CAA)-10/ND/2020 filed under Sections 60 to 62 of the Limited Liability Partnership Act, 2008 and Limited Liability Partnership Rules. The present petition has been filed by the Applicant LLPs named above for the purpose of the approval of the Scheme of Amalgamation, as contemplated between the LLPs by way of Amalgamation of Transferor LLPs with the Transferee LLP. As per the Scheme of Amalgamation (in short, '**Scheme**'), "Ocean View Holiday Homes LLP" "Ocean View Suites LLP" "White Pearl Villas LLP" "White Shine Hospitality LLP" (hereinafter referred to as '**Transferor LLP**') are proposed to be merged with "Ocean View Cottages LLP" (hereinafter referred to as '**Transferee LLP**') as a going concern.

2. The Transferor LLP 1 was incorporated on 19<sup>th</sup> March 2015, under the Limited Liability Partnership Act, 2008 with a contribution of partners of Rs 1,00,000/-.

3. The Transferor LLP 2 incorporated on 19<sup>th</sup> March 2015, under the Limited Liability Partnership Act, 2008 with a contribution of partners of Rs 1,00,000/-.
4. The Transferor LLP 3 was incorporated on 11<sup>th</sup> September 2018, under the Limited Liability Partnership Act, 2008 with a contribution of partners of Rs 1,00,000/-.
5. The Transferor LLP 4 was incorporated on 7<sup>th</sup> September 2015, under the Limited Liability Partnership Act, 2008 with a contribution of partners of Rs 1,00,000/-.
6. The Transferee LLP was incorporated on 19<sup>th</sup> March 2015, under the Limited Liability Partnership Act, 2008 with a contribution of partners of Rs 1,00,000/-.
7. The main objects of the all the LLPs are as follows:-
  - i. To establish, construct and carry-on business of running, managing and operating as hotels, restaurants, health spas and resorts, entertainment areas, amusement rooms or parks, refreshment rooms, tea rooms, cafes, milk and snack bars, and as caterers and contractors in all or any of its respective branches and to carry on the business of establishing, running, operating, franchising, managing health resorts, health clubs, health farms, health rejuvenation centres and health spas.*



*ii. To own, acquire, take on lease and license or to acquire in any other manner, and to hold, maintain, manage and operate and to give on license, to create, construct, establish, develop, improve sell and deal in any other manner, whether on own account or through or in association with or on behalf of third parties, hotels, restaurants, health spa and resorts, entertainment areas, amusement rooms or parks, refreshment rooms, tea rooms, cafes, milk and snack bars, real estates, cities, townships, commercial buildings, executive convention service centres, executive services residential centres and other residential houses, serviced apartment hotels, multiplex plazas, shopping arcades, airport duty free shops and retail outlets whether on franchise or otherwise and to provide in connection thereto all facilities and services.*

8. The Designated Partners of the respective LLPs approved the present Scheme vide meeting dated 8<sup>th</sup> April 2019. Furthermore, this tribunal has exempted the convening the meetings of partners and unsecured creditors on the basis of written consent filed by them vide order dated 7<sup>th</sup> November, 2019. Moreover, there is no secured creditor in any of the Applicant LLPs.

9. The rationale of the scheme as stated is as follows: -

*i. The amalgamation of the Transferor LLPs with Transferee LLP will enable application and development of the assets of the Transferor LLP more economically and efficiently with better utilisation of the combined resources including infrastructure and administration, increased management attention, greater synergy in projects and operations and reduced costs and expenses.*

*ii. The Transferor LLPs, post amalgamation, will become part of a larger entity and will therefore have access to the financial resources, greater management attention and superior experience of the Transferee LLP. The amalgamation will strengthen the Transferor LLPs' position and allow its business to leverage the strength, focused management time and resource pool of the Transferee LLP, raise funds apart from achieving operational and cost synergies.*

*iii. As the business operations of the Transferee LLP expand there is a need to have a simpler, consolidated and focused business organisation structure. The amalgamation of Transferor LLPs with the Transferee LLP will enable consolidation of all their resources for higher efficiencies and synergies.*

*iv. The amalgamation is in the interest of the partners, creditors and all other stakeholders of the respective LLPs, and is not prejudicial to the interests of the concerned partners, creditors or the general public at large.*

10. As per part-II of the proposed scheme with effect from the Appointed Date, the Transferor LLPs shall stand amalgamated with the Transferee LLP. Accordingly, the Undertaking/Business of the transferor LLPs shall, pursuant to the provisions contained in Section 62 and other applicable provisions of the Act and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, stand transferred to and vest in or be deemed to be transferred to and vested in the Transferee LLP, as a going concern without any further act, deed, matter or thing so as to become on and from the Appointed Date, the Undertaking/Business of the Transferee LLP.



11. Para 11 of the Scheme provides that this Scheme is in compliance with the conditions relating to "Amalgamation" as specified under Section 2(1B) of the Income Tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section at a later date including resulting from any retrospective amendment of law or for any other reason whatsoever, till the Effective Date, the Scheme shall stand modified to the extent determined necessary to comply with the provisions of the then prevalent Section 2(1B) of the Income Tax Act, 1961.

12. Para 5 of the scheme provides that if any suits, actions and proceedings of whatsoever nature (hereinafter called the "Proceedings") by or against the Transferor LLP are pending on the Effective Date, the same shall neither abate nor discontinued nor in any way be prejudicially affected by reason of the amalgamation of the Transferor LLPs with the Transferee LLP or anything contained in the Scheme, but the Proceedings may be continued and enforced by or against the Transferee LLP as effectually and in the same manner and to the same extent as the same would or might have continued and enforced by or against the Transferor LLPs, in the absence of the Scheme.

13. It is submitted by the Counsel on behalf of the Applicants that even after the notice has been served effectively to concerned Registrar of Companies (RoC) and Official Liquidator (OL), no one appeared nor any objection filed by any of them. Hence, it can be presumed that they have no objection to the scheme of amalgamation of the concerned LLPs.

14. The report of Income Tax w.r.t. Transferor LLP 1 was filed on 21.01.2021, w.r.t. Transferor LLP 2 was filed on 21.01.2021, w.r.t. Transferor LLP 3 was filed on 18.01.2021, w.r.t. Transferor LLP 4 was filed on 18.01.2021 and w.r.t. Transferee LLP was filed on 21.01.2021. It is submitted by the Income Tax Authority that the approval of the present scheme of amalgamation may be granted by this Hon'ble Tribunal upon reserving the rights of the Income Tax Authority.

15. Para 12 of the Scheme provides that the amalgamation shall be accounted for in the books of account of the Transferee LLP according to the pooling of interests' method under Accounting Standard (AS) 14, 'Accounting for Amalgamations' issue by the Institute of Chartered Accountants of India. If new accounting standards are notified under the provisions of the Act, the accounting treatment for the amalgamation shall be in conformity with the same.



16. It is submitted that the Applicant LLPs turnover is less than Rs. 40 Lakhs and also has contribution less than Rs. 25 Lakhs. Therefore, as per Rule 24(8) of the Limited Liability Partnership Rules, 2009, the applicant LLPs shall not be required to get its account audited. Furthermore, the applicant LLPs are not governed by any sectoral regulator. Moreover, no investigation proceedings have been instituted and/or pending in relation to the Applicant LLPs under section 43 of Limited Liability Partnership Act, 2008 or any other provisions of law.

17. There is no additional requirement for any modification and the Scheme of Amalgamation appears to be fair and reasonable and is not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under Sections 60 to 62 of the Limited Liability Partnership Act, 2008.

18. Taking into consideration the above, the Application filed by the Applicant is **allowed** and the **Scheme** of Amalgamation is hereby **Sanctioned**. The Scheme approved shall be binding on the Partners, Creditors and employees of the Companies involved in this Scheme. The Appointed date of the Scheme is 01.04.2018.

19. While approving the Scheme as above, it is further clarified that this Order will not be construed as an order granting exemption from payment of stamp duty or taxes or any other charges, if 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.

20. The LLPs to the said Scheme or other person interested shall be at liberty to apply to this Bench for any direction that may be necessary with regard to the working of the said Scheme.

21. A certified copy of this Order shall be filed with the concerned Registrar for registration in Form 22 along with applicable fee within 30 days of the receipt of this Order as required under section 62(3) of the Limited Liability Partnership Act, 2008.

22. The Transferor LLPs shall be dissolved without winding up pursuant to the provisions of Section 62 of the Act, without any further act or deed. On and from the effective date, the name of the Transferor LLPs shall be struck off from the records of the concerned Registrar of

Companies. The transferee LLP shall make necessary filings, if any, in this regard required as per the applicable laws.

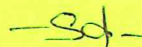
23. Upon receiving the certified copy of this Order, the RoC concerned is directed to place all documents relating to the Transferor LLPs with that of the Transferee LLP and the files relating to the Transferor LLPs shall be consolidated with the files and records of the Transferee LLP.

24. The Order of sanction to this Scheme shall be prepared by the Registry as per the relevant format

25. Accordingly, the Scheme stands sanctioned and CAA-10/ND/2020 stands disposed of. Therefore, CA(CCA)-116/ND/2019 is also closed.



**(NARENDER KUMAR BHOLA)**  
MEMBER (TECHNICAL)



**(CH. MOHD SHARIEF TARIQ)**  
MEMBER (JUDICIAL)