

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IN

COMPANY APPLICATION NO. : C.A.(CAA)-67/ND/2025

IN THE MATTER OF SCHEME OF AMALGAMATION OF:

MGS Hospitalities Private Limited

Registered office at:
D-136, Okhla Industrial Area, Phase-I,
New Delhi-110020

**... Applicant No. 1/
Transferor Company No. 1**

AND

MGS Securities Private Limited

Registered office at:
D-136, Okhla Industrial Area, Phase-I,
New Delhi-110020

**... Applicant No. 2/
Transferor Company No. 2**

AND

Boulder Estates Private Limited

Registered office at:
D-136, Okhla Industrial Area, Phase-I,
New Delhi-110020

**... Applicant No. 3/
Transferor Company No. 3**

WITH

MGS (India) Private Limited

Registered office at:
D-136, Okhla Industrial Area, Phase-I,
New Delhi-110020

**... Applicant No. 4/
Transferee Company**

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

Order delivered on: 22.05.2026

**Under Section: 230-232 of the Companies Act, 2013 r/w the Companies
(Compromise, Arrangements and Amalgamations) Rules, 2016**

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Prashant Kumar, Adv. Sushant Kumar

ORDER

PER: MS. REENA SINHA PURI, MEMBER (T)

The present application has been preferred by MGS Hospitalities Private Limited (Applicant/Transferor Company), MGS Securities Private Limited (Applicant No. 2/Transferor Company No.2) , Boulder Estates Private Limited (Applicant No. 3/Transferor Company No.3) with MGS (India) Private Limited (Applicant No. 4/Transferee Company), under Sections 230- 232 of the Companies Act, 2013 and Rules 3 and 5 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016. seeking exemption from and/or seeking directions for convening and holding of the meetings of the equity shareholders as well as secured and unsecured creditors of the applicant companies to consider and approve the scheme of amalgamation.

2. Proposing a Scheme for the amalgamation of MGS Hospitalities Private Limited, MGS Securities Private Limited, Boulder Estates Private Limited With MGS (India) Private Limited under Sections 230-232 of the Companies Act, 2013, the application seeks following directions:

i. That the meetings of Equity Shareholders, Secured and Unsecured Creditors of the Applicant Companies may kindly be dispensed with in view of the written consents given by the Equity Shareholders, Secured and Unsecured Creditors of the Applicant Companies or in the alternative if this Hon'ble Tribunal directs the Applicant Companies to convene the meetings of Equity Shareholders, Secured and Unsecured Creditors, then directions may kindly be issued for

convening meetings of Equity Shareholders, Secured and Unsecured Creditors of the Applicant Companies at the Registered Office of the Applicant Companies, or at such other place as may be fixed by this Hon'ble Tribunal, and on such date(s) and at such time(s).

3. Applicant Company 1, M/s. MGS Hospitalities Private Limited having CIN No. U55101DL2003PTC1192163, is a private company, incorporated on 03.03.2003 under the Companies Act, 1956. The registered office of the company is situated at D-136, Okhla Industrial Area, Phase-1, New Delhi 110020. The Authorised Share Capital of the Company is Rs 2, 00, 00,000/- and its Paid-up Share Capital is Rs 2, 00, 00,000/-.

4. Applicant Company 2, M/s. MGS SECURITIES PRIVATE LIMITED having CIN No. U75144DL2007PTC162747, is a private company, incorporated on 30.04.2007 under the Companies Act, 1956. The registered office of the company is situated at D-136, Okhla Industrial Area, Phase-1, and New Delhi 110020. The Authorised Share Capital of the Company is Rs 1, 00, 00,000/- and its Paid-up Share Capital is Rs 56, 41,700/-.

5. Applicant Company 3, M/s. BOULDER ESTATES PRIVATE LIMITED having CIN No. U70101DL1996PTC077414, is a private company, incorporated on 21.03.1996 under the Companies Act, 1956. The registered office of the company is situated at D-136, Okhla Industrial Area, Phase-1, and New Delhi 110020. The Authorised Share Capital of the Company is Rs 25, 00,000/- and its Paid-up Share Capital is Rs 1, 70,200/-.

6. Applicant No-4, M/s. MGS (India) Private Limited, having CIN No. U74899DL1991PTC043393 is a private limited company, incorporated on 17.05.1999 under the Companies Act, 1956. The registered office of the company is situated at D-136, Okhla Industrial Area, Phase-1, New Delhi-

110020 The Authorised Share Capital of the Company is Rs. 2,00,00,000/- and its Paid-up Share Capital is Rs.85,08,350/-.

7. The registered offices of the Applicants are situated in Delhi and, accordingly, fall within the territorial jurisdiction of this Bench.

8. The Applicants have placed on record their Certificates of Incorporation, along with copies of their respective Memorandum and Articles of Association¹, which, inter alia, set out their object clauses. Copies of the audited financial statements, along with the Auditor's Reports² for the financial year ending 31.03.2024. Further provisional financial statement³ of 31.03.2025 has also been placed. It is further noted that the Board of Directors of Applicants, at meetings⁴ held on 16.05.2025 has approved the proposed Scheme of Amalgamation.

9. The Appointed Date of the Scheme is the 01.04.2025, as mentioned in the scheme. The rationale⁵ of the proposed amalgamation scheme is stated by the Applicant as under:

The benefits of the Scheme, inter-alia, would be:

5.1 The amalgamation will enable the Companies to pool their financial, commercial and other resources as the magnitude of the investments contemplated will be better met by the Companies amalgamated together and considerable synergy of operations would be achieved.

5.2 With the enhanced capabilities and resources at its disposal, the Amalgamated Companies will have greater flexibility and strength and will be able to compete more effectively as a multidimensional entity.

5.3 The Amalgamated/Merged Companies will have better financial and business prospects. The Scheme would be beneficial to and in the best interest of the Shareholders and Creditors, if any, of the Transferor

¹ Annexure A1-A4-Page 75-175 of the Application

² Annexure A5-A8-175-262 of the Application

³ Annexure A9-A12-Page 262-349 of the Application

⁴ Annexure A15-A18-Page 409-442 of the Application

⁵ Page 357 of the application

Companies and the Transferee Company. The Scheme shall not in any manner be prejudicial to the interests of concerned members/ Creditors or general public at large. The Scheme shall provide strength to the Transferor Companies on its amalgamation with the Transferee Company.

5.4 It would be advantageous to combine the activities of the Transferor Companies and the Transferee Company into a single Company. The Amalgamation would provide beneficial synergy of operation from business and administrative point of view.

5.5 Better administration and cost reduction (including reduction in administrative and other common costs); and

5.6 Better utilization of professional expertise and other manpower resources.

10. The Applicant Companies have placed on record certificates issued by their respective Statutory Auditors in relation to the proposed accounting treatment under the Scheme. The said certificates confirm that the accounting treatment contemplated in the Scheme is in conformity with the applicable accounting standards⁶ prescribed under Section 133 of the Companies Act, 2013.

11. Clause 9 of the Scheme refers to the status of all staff, workmen, and employees⁷ of the Transferor Company on the effective date following the proposed amalgamation with and into the Transferee Company:

WORKMEN & EMPLOYEES:

9. All employees of the Transferor Companies in service on the Effective Date shall become the employees of the Transferee Company on such date without any break or interruption in service and on the terms and conditions not in any way less favourable to them than those subsisting with reference to the Transferor Companies as the case may be on the said date.

9.1 It is expressly provided that as far as the Provident Fund, Gratuity Fund, Superannuation Fund or any other Special Fund created or existing for the

⁶ AnnexureA14-Page 305-384 of the Application

⁷ Page 374 of the Application

benefit of the employees of the Transferor Companies are concerned, upon Director the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Companies for all purposes whatsoever relating to the administration or operation of such Schemes or Funds or in relation to the obligation to make contributions to the said Schemes or Funds in accordance with the provisions of such Schemes or Funds as per the terms provided in the respective Trust Deeds/other documents. To the end and intent that all rights, duties, powers and obligations of the Transferor Companies in relation to such Funds/Schemes shall become those of the Transferee Company, it is clarified that the service of the employees of the Transferor Companies will be treated as having been continued for the purpose of the aforesaid Funds or provisions.

- 12.** The Applicant companies have furnished the following documents:
- i. Certificate of Incorporation, Master Data and Memorandum and Articles of Association of Applicant Companies.
 - ii. A copy of the proposed Scheme of Amalgamation.
 - iii. List of Shareholders of Applicant Companies, as on 31.12.2024, along with their Consent Affidavits respectively.
 - iv. NIL Secured creditor certificate for the Applicant Companies, as on 31.03.2025
 - v. NIL Unsecured creditor certificate for the Applicant Companies, as on 31.03.2025
 - vi. Copy of valuation report provided by Registered Valuer, containing the share swap ratio
 - vii. List of Directors of Applicant Companies
 - viii. Copy of the resolution passed by the Board of Directors of Applicant Companies approving the Scheme of Arrangement.
 - ix. Certificates of Statutory Auditors to the effect that accounting treatment proposed in the Scheme conforms to Section 133 of the Companies Act, 2013 by Applicant companies
 - x. Audited Balance Sheet as on 31.03.2024 of Applicant Companies.
 - xi. Provisional Balance Sheet as on 31.03.2025 of Applicant Companies.

13. The Applicant has stated on Application and on Affidavit the following material facts relating to the Applicant Companies in terms of Section 230(2):

- a. There is no investigation or any other legal proceedings pending against any of the Applicant Companies under the Companies Act 2013 and/or the Companies Act, 1956 and/or any other applicable law/ statute.
- b. No reduction of share capital in terms of Section 66 of the Act is envisaged in the proposed Scheme.
- c. It is further noted that the Transferor Company and Transferee Company have not entered into any Corporate Debt Restructuring arrangement.

14. The details regarding the number and value of shareholders and creditors of the Applicant Companies, along with the status of their consent⁸ to the proposed Scheme, have been provided in the application in a tabulated format for ease of reference.

Company	Equity Shareholders Nos	Shareholders Consent (%)	Secured creditors Nos.	Secured creditors Consent (%)	Unsecured creditors Nos.	Unsecured creditors Consent (%)
Transferor Company No.1	4	100%	0	NA	0	NA
Transferor Company No.2	4	100%	0	NA	0	NA
Transferor Company No.3	1	100%	0	NA	0	NA
Transferor Company No.4	4	100%	0	NA	0	NA

⁸ Annexure 19,20- Applicant No. 1, Annexure A23,24- Applicant No. 2, Annexure A27- Applicant No.3, Annexure A31- Applicant No. 4

15. Further, the grounds on which exemption from meetings for the Applicant Company has been sought, as stated in the application, reads as follows:

S. No.	Grounds for exemption of meetings of shareholders	Grounds for exemption of meetings of Secured Creditors	Grounds for exemption of meetings of Unsecured Creditors
Transferor Company No.1	Consent affidavits are given by all the Shareholders	N.A	N.A
Transferor Company No.2	Consent affidavits are given by all the Shareholders	N.A	N.A
Transferor Company No.3	Consent affidavits are given by all the Shareholders	N.A	N.A
Transferor Company No.4	Consent affidavits are given by all the Shareholders	N.A	N.A

16. Since the Applicant Companies (being the Transferor and Transferee Companies) do not have any secured or unsecured creditors, the requirement to convene meetings of creditors does not arise.

17. With regards to the Shareholders of the Applicant Companies, the Applicants have prayed for dispensing with the requirement of convening a meeting of shareholders since 100% of the shareholders of the Applicant

Companies have provided their consent/no-objection to the proposed Scheme by way of affidavits.

18. At this stage, it would be relevant to refer to the Delhi High Court judgement in *Mazda Theatres v. New Bank of India* wherein the Hon'ble Delhi High Court carved out exceptions where shareholders' meetings under Sections 391 – 394 of the 1956 Act could be dispensed with. The relevant extract of the judgment is reproduced below for ease of reference:

*“Inroads have, however, been made on this formal doctrine. Firstly, **the consent of all the shareholders given even outside a meeting is sufficient to comply with the requirement of a meeting ...***

...

*The second inroad on the requirement of a formal meeting is that **the consent of the shareholders may be ascertained without calling any meeting at all.** Further, the doctrine of lifting the veil of incorporation and looking at the reality of the action of the members of the company enables us to hold that **the consent of the overwhelming majority of the shareholders outside a meeting is sufficient to show that the resolution was supported virtually by all the members of the company ...”***

[Emphasis Supplied]

19. The above judgment was subsequently affirmed by the Hon'ble Delhi High Court in *Adobe Properties Private Limited with AMP Motors Private Limited* wherein the Hon'ble High Court dealt with the question of dispensing with the requirement of convening meeting of the equity shareholders, secured and unsecured creditors to consider and approve the scheme of amalgamation of the Applicant companies therein. The Hon'ble High Court made reference to several judicial precedents before taking the view that a court/ tribunal has the discretionary power to order the convening of such meeting or dispensing

with the same. However, such power has to be exercised judicially, to further the ultimate aim and object of the statute. Relevant extract of the judgment reads thus:

25. The legal position that emerges from a conspectus of the above decisions can be summarized as follows:

- i. The Court may dispense with the requirement of convening meetings of members and/or creditors or a class thereof, in view of the circumstance that a scheme is not being proposed to members and/or creditors or a class thereof.*
- ii. The Court may dispense with the requirement of convening meetings of the members and/or creditors of the holding company in the event a wholly owned subsidiary is being amalgamated into its holding company and no variation of rights is being caused to such members and/or creditors of the holding company.*
- iii. The Court may dispense with the requirement of convening meetings of creditors or a class thereof, of the wholly owned subsidiary, in the event a wholly owned subsidiary is being amalgamated into its holding company and the rights of creditors of wholly owned subsidiary remain unaffected therein.*
- iv. **The Court may exercise its discretion to dispense with the requirement of convening meetings of members and/or creditors, or a class thereof, in view of the consent obtained from majority in number and three-fourths in value of such members and/or creditors, or a class thereof, as the case may be, in writing to the proposed scheme.***

(Emphasis Supplied)

20. In light of the foregoing, the prayer made by the Applicant Companies for dispensing from the requirement of convening meetings of their respective shareholders and creditors, for the purpose of seeking approval of the proposed Scheme of Amalgamation, is hereby granted.

21. The present order would be notified to the following:

- i. Central Government through the Regional Director (Northern Region), Ministry of Corporate Affairs;
- ii. Registrar of Companies, NCT of Delhi & Haryana;
- iii. Official Liquidator, High Court of Delhi;
- iv. Jurisdictional Assessing Officer, & Principal Chief Commissioner of Income Tax, New Delhi.

22. On completion of the exercise as above, the Applicant Companies shall be entitled to move an appropriate application.

23. All the aforesaid directions are to be complied with strictly in accordance with the applicable laws including forms and formats contained in the Rules as well as the provisions of the Companies Act, 2013 by the Applicant Companies.

24. The Court Officer/Registry is directed to send a copy of this order to the Applicant Companies for necessary steps to be taken at their end.

25. The Application CA (CAA)-67/ND/2025 is allowed on the aforesaid terms.

Sd/-
(REENA SINHA PURI)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)