

**THE NATIONAL COMPANY LAW TRIBUNAL,  
COURT – I, MUMBAI BENCH**

**C.A(CAA)/39/MB-I/2024**

*In the matter of*

*The Companies Act, 2013 (18 of 2013);*

*AND*

*In the matter of*

*Sections 232 r/w 230*

*and other applicable provisions of the  
Companies Act, 2013 and Rules framed  
thereunder as in force from time to time;*

*AND*

*In the matter of*

*Composite Scheme of Amalgamation*

**Bhagyashree Infrastructure Private Limited**

CIN: U70100MH2006PTC160477 ...Applicant Company 1/  
**Transferor Company 1**

**Parametric Trading Private Limited**

CIN: U51900MH2007PTC169460 ...Applicant Company 2/  
**Transferor Company 2**

**Rite Bite Trading Private Limited**

CIN: U74900MH2010PTC200116 ...Applicant Company 3/  
**Transferor Company 3**

**Yaksha Infrastructure Company**

CIN: U70109MH2007PTC169464 ...Applicant Company 4/  
**Transferor Company 4**

**Divine Infraction and Trading**

CIN: U45201MH2004PTC264788 ...Applicant Company 5/  
**Transferee Company**

*(“Collectively referred as Applicant Companies”)*

*Order delivered on 25.04.2024*

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*Coram:*

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Justice V.G. Bisht (Retd.)**  
Hon'ble Member (Judicial)

*Appearances (through)*

For the Applicant(s) : Mr. Harsh Kesharia, Advocate

**ORDER**

1. Heard learned Counsel for the Applicant Company.
2. The present Scheme is a Scheme of Amalgamation amongst **Bhagyashree Infrastructure Private Limited** (Transferor Company 1), **Parametric Trading Private Limited** (Transferor Company 2), **Rite Bite Trading Private Limited** (Transferor Company 3), **Yaksha Infrastructure Company Private Limited** (Transferor Company 4) **Divine Infraction And Trading Private Limited** (Transferee Company), and their respective shareholders and creditors under sections 232 r/w Section 230 of the Companies Act, 2013 and other Applicable provisions of the Companies Act, 2013.
2. The Board of Directors of the Transferor Companies and Transferee Company in their respective meetings conducted on February 12, 2024 have approved the Scheme of Amalgamation. The Appointed Date fixed under the Scheme is October 1, 2023.
  1. The **rationale for the proposed Scheme** is as under:  
All Transferor Companies and Transferee Company are owned

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and controlled by the same family. In order to consolidate and effectively manage the Transferor Companies and the Transferee Company in a single entity, which will provide several benefits including synergy, economies of scale, attain efficiencies and cost competitiveness, it is intended that the Transferor Companies be amalgamated with Transferee Company. The management is of the opinion that the merger will lead to inter alia synergies of operations and more particularly the following benefits:

- (a) Consolidation of similar or complementary businesses under one entity;
- (b) Streamlining the current organization structure, achieving administrative and operational convenience and to realign the shareholding;
- (c) Greater administrative efficiency and enhanced productivity;
- (d) Reduction in multiplicity of legal and regulatory compliances;
- (e) The Scheme of Amalgamation and Arrangement will result in cost saving for all the Companies and is expected to result in administrative efficiency and higher profitability levels for the Transferee Company in the near future.
- (f) The amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation and create a stronger financial base.
- (g) It would be advantageous to combine the activities and operations of applicant Companies into a single

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Company for synergistic linkages and the benefit of combined financial resources. This will be reflected in the profitability of the Transferee Company.

- (h) This Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Companies and the Transferee Company in one entity, all the shareholders and creditors of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform.
- (i) The Amalgamation of the Transferor Companies with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of the applicant Companies. The Transferee Company will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme.
- (j) The Scheme of amalgamation will result in cost saving for the applicant Companies as they are capitalizing on each other's core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Companies.
- (k) The Transferor Companies and the Transferee Company have common shareholders and Directors. The

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shareholders would consolidate their holdings and leverage the share value consequent to higher profitability.

2. The nature of Business are as follows:

- i. The Applicant Company No.1 has been undertaking the business in India as developers, constructors, purchasers, and dealers in all kinds of properties including lands, buildings, shops, flats, godown, sheds, fixtures on land and buildings and other business more particularly mentioned in the Objects Clause.
- ii. The Applicant Company No.2 has been in the business of trading, selling, buying, reselling, distributing, exporting, importing and acting as merchants, commission agents to buy, sell, import, export or otherwise deal in goods produce, ware, articles, things, merchandise, materials and deal in all kinds of goods.
- iii. The Applicant Company No.3 has been in the business of acting as Traders, Distributors, Dealers, Wholeseller, Retailers, Exporter, Importer, Brokers, Stockiest & Commission Agent, professional fees, Agency business. Selling and marketing business of Agricultural, Commercial, Industrial products, Household, Domestic, Automobiles, Farms and Forest product, Food product, Leather & Leather Products, Rubber and rubber product. Petroleum and petroleum products, Engineering product goods, Plant & Machinery, Equipment, Apparatus and other gadgets, Appliances, Accessories, Spare parts, Computer Hardware,

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Software, all type of dyes & Chemicals, Minerals, Pharmaceutical, Wool, Silk, Yarn, Ibers, Garments, Textiles, Paper & all kind of Boards, Tea, Timber Products, Rubber, Plastics, Footwears, Marbles, Granites, Cement and Ceramic Tiles, Pesticides, Glass & Glassware, Tyres & Tubes, Cement, Fertilizers, Iron & Steel, Copper, Gold, Silver, Diamonds, Precious Stones and Jewellery, Currency, Ferrous & Non Ferrous Metals, Electronic toys, Games, batteries, Button cells, Telephones & Sim cards, Gas lighters, Calculating Machines, Electronic Organizers, Computer Floppy Diskettes, Audio Video tapes, Compact discs, T.V., Software Film and TV Serials, e-commerce, tele marketing and internet portals or any other merchandise and commodity.

- iv. The Applicant Company No.4 has been in the business of developers, builders, masonry and general construction contractor, estate agents, erectors, constructors of buildings, houses, apartments structures, shelters, civil engineering and or residential, office, industrial, institutional or commercials or developers or cooperative housing societies, developers or township, holiday resorts, hotels, motels and to equip the same or part thereof with all or any amenities or conveniences, drainage facilities, electric and to deal with the same in any manner whatsoever and in particular preparing of building sites, constructing, reconstructing, erecting, altering, improving and maintaining of structures, flats, houses, works, workshops, hospitals, nursing homes,

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clinics, godowns and other commercial, educational purposes and conveniences to purchase for development, for resale lands, houses, buildings, structures and other properties of any tenure and any interest therein and to purchase, sell, lease, hire, exchange or otherwise deal in lands and house property and other property whether real or personal and to turn the same into account as may seem expedient by entering into contracts and arrangements of all kinds with builders, tenants and others.

- v. The Applicant Company No.5 is in the business of traders, merchants, wholesalers, retailers, liasioners, stockiest, distributors, importers, exporters, Intermediaries, middlemen, brokers, suppliers, indentors, C & F agents, commission agents, buying agents, selling agents or otherwise to exchange, load, unload, handle, deal, in all types, shapes, sizes, uses, capabilities, specifications, descriptions and varieties of products whether made of iron & steel or in combination with any other ferrous or non-ferrous materials such as plants, machineries, tools, Jigs, dies, moulds, equipment's, instruments, fitting, pipes, utensils, accessones, etc. used in any Industry. trade. commerce, or any other purpose and to do all incidental acts and things necessary for the attainment of the above objects.

3. The Authorised Share Capital of the **Applicant Company No.1**,

as on the 31<sup>st</sup> day of March, 2023 is as under:

| <b>Particulars</b>                                       | <b>Amount (Rs.)</b> |
|--|---------------------|
| <b>Authorised Capital</b>                                |                     |
| 1,51,70,000 Equity shares of face value of Rs. 10/- each | 15,17,00,000        |
| <b>Total</b>   | <b>15,17,00,000</b> |
| <b>Issued, Subscribed and Paid up Capital</b>            |                     |
| 84,09,382 Equity shares of face value of Rs. 10/- each   | 8,40,93,820         |
| <b>Total</b>   | <b>8,40,93,820</b>  |

As on date there is no change in the capital structure of the Applicant Company No.1

4. That there are **10 (Ten) Equity Shareholders in the Applicant Company No.1** holding 84,09,282 equity shares of Rs.10/-n each aggregating value of Rs.8,40,92,820 as on 30.09.2023. The convening and holding the meeting of the Equity Shareholders of the Applicant Company No.1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of is dispensed with in view of **the consent affidavits given by the Ten Equity Shareholders of the Applicant Company No.1.**
5. The Share Capital of the **Applicant Company No.2** as on the 31<sup>st</sup> day of March, 2023 is as under:

| <b>Particulars</b>                                     | <b>Amount (Rs.)</b> |
|--|---------------------|
| <b>Authorised Capital</b>                              |                     |
| 26,50,000 Equity shares of face value of Rs. 10/- each | 2,65,00,000         |
| <b>Total</b>   | <b>2,65,00,000</b>  |
| <b>Issued, Subscribed and Paid up Capital</b>          |                     |



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|  |                    |
|--|--------------------|
| 26,22,600 Equity shares of face value of Rs. 10/- each | 2,62,26,000        |
| <b>Total</b>   | <b>2,62,26,000</b> |

As on date, there is no change in the capital structure of the Applicant Company No.2.

6. That there are **5 (Five) Equity Shareholders in the Applicant Company No. 2** holding 26,22,600 equity shares of Rs.10 each amounting to Rs.2,62,26,000/-. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No.2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation is dispensed with in view of the consent affidavits given by all the Five Equity Shareholders of the Applicant Company No.2.

7. The Share Capital of the **Applicant Company No.3** as on the 31<sup>st</sup> day of March, 2023 is as under:

| <b>Particulars</b>                                  | <b>Amount (Rs.)</b> |
|---|---------------------|
| <b>Authorised Capital</b>                           |                     |
| 10,000 Equity shares of face value of Rs. 10/- each | 1,00,000            |
| <b>Total</b>  | <b>1,00,000</b>     |
| <b>Issued, Subscribed and Paid up Capital</b>       |                     |
| 10,000 Equity shares of face value of Rs. 10/- each | 1,00,000            |
| <b>Total</b>  | <b>1,00,000</b>     |

As on date, there is no change in the capital structure of the Applicant Company No.3.

8. That there are **2 (Two) Equity Shareholders in the Applicant**

**Company No. 3 wherein the nominee of the majority shareholder holds 1 Equity Share in the Applicant Company No. 3.** The convening and holding the meeting of the Equity Shareholders of the Applicant Company No.3 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation is dispensed with in view of the consent affidavit given by the majority Equity Shareholder of the Applicant Company No. 3.

9. The Share Capital of the **Applicant Company No.4** as on the 31<sup>st</sup> day of March, 2023 is as under:

| <b>Particulars</b>                                     | <b>Amount Rs.</b> |
|--|-------------------|
| <b>Authorised Capital</b>                              |                   |
| 26,10,000 Equity shares of face value of Rs. 10/-each  | 2,61,00,000       |
| <b>Total</b>   | 2,61,00,000       |
| <b>Issued, Subscribed and Paid up Capital</b>          |                   |
| 26,10,000 Equity shares of face value of Rs. 10/- each | 2,61,00,000       |
| <b>Total</b>   | 2,61,00,000       |

As on date, there is no change in the capital structure of the Applicant Company No.4.

10. That there are **6 (Six) Equity Shareholders in the Applicant Company No. 4** holding 26,10,100 of Rs.10 each amount to Rs.2,61,00,000/-. The convening and holding the meeting of the Equity Shareholders of the Applicant Company No. 4 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation is dispensed with in view of the consent affidavits given by all the Six Equity Shareholders of the

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Applicant Company No. 4.

11. The Share Capital of the **Applicant Company No.5** as on the 31<sup>st</sup> day of March, 2023 is as under:

| <b>Particulars</b>                                     | <b>Amount (Rs.)</b> |
|--|---------------------|
| <b>Authorised Capital</b>                              |                     |
| 52,00,000 Equity shares of face value of Rs. 10/-each  | 52,00,00,000        |
| <b>Total</b>   | 52,00,00,000        |
| <b>Issued, Subscribed and Paid up Capital</b>          |                     |
| 51,51,221 Equity shares of face value of Rs. 10/- each | 5,15,12,210         |
| <b>Total</b>   | 5,15,12,210         |

As on date, there is no change in the capital structure of the Applicant Company No.5.

12. That there are **10 (Ten) Equity Shareholders in the Applicant Company No. 5** holding 51,51,221 of Rs.10 each of Rs. 5,15,12,210/- as on 30.09.2023. That the convening and holding the meeting of the Equity Shareholders of the Applicant Company No. 5 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation is dispensed with in view of the consent affidavits given by all the Ten Equity Shareholders of the Applicant Company No. 5.

13. That the counsel for the Applicant Companies submits that there is **One Secured Creditor** of value Rs. 10,19,375/- as on 30.09.2023 **in the Applicant Company No. 2**. Except the Applicant Company No. 2, there are no Secured Creditors in any other Applicant Companies. That the convening and

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holding the meeting of the Secured Creditor of the Applicant Company No. 2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavit given by the One Secured Creditor of the Applicant Company No. 2.

14. The counsel for the Applicant Companies submits that there are **Twelve Unsecured Creditors** of value Rs. 60,43,24,318/- as on 30.09.2023 **in the Applicant Company No. 1**. That the convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 1 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavits given by the Twelve Unsecured Creditors of the Applicant Company No. 1 aggregating to a sum of Rs. 60,43,24,318/- which are more than 90% value of the Unsecured Creditors.
15. The counsel for the Applicant Companies submits that there are **Six Unsecured Creditors** of value Rs. 7,32,75,664/- as on 30.09.2023 **in the Applicant Company No. 2**. The convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 2 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavits given by the Six Unsecured Creditors of the Applicant Company No. 2 aggregating to a sum of Rs. 7,32,75,664/-, which are more than 90% value of the Unsecured Creditors.

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16. The counsel for the Applicant Companies submits that there is **One Unsecured Creditor** of value Rs. 1,09,00,000/- as on 30.09.2023 **in the Applicant Company No. 3**. That the convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 3 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavits given by the One Unsecured Creditor of the Applicant Company No. 3 aggregating to a sum of Rs. 1,09,00,000/-, which are more than 90% value of the Unsecured Creditors.
17. The counsel for the Applicant Companies submits that there are **Three Unsecured Creditors** of value Rs. 28,23,88,380/- as on 30.09.2023 **in the Applicant Company No. 4**. The convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 4 for the purpose of considering and, if thought fit, approving, with or without modification(s) the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavits given by the Three Unsecured Creditors of the Applicant Company No. 4 aggregating to a sum of Rs. 28,23,88,380/-, which are more than 90% value of the Unsecured Creditors.
18. The counsel for the Applicant Companies submits that there is **One Unsecured Creditor** of value Rs. 45,84,000/- as on 30.09.2023 **in the Applicant Company No. 5**. That the convening and holding the meeting of the Unsecured Creditors of the Applicant Company No. 5 for the purpose of considering and, if thought fit, approving, with or without modification(s)

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the proposed Scheme of Amalgamation of the Applicant Companies, in view of the consent affidavit given by the One Unsecured Creditor of the Applicant Company No. 5 aggregating to a sum of Rs. 45,84,000/-, which are more than 90% value of the Unsecured Creditors.

19. The Consideration is as follows:

*Upon the Scheme becoming finally effective, in consideration of the transfer and vesting of the Undertaking of the Transferor Companies in the Transferee Company in terms of the Scheme, the Transferee Company shall subject to the provisions of the Scheme and without any further application or deed, issue and allot 1 (One) Equity Share having face value of Rs. 10/- (Rupees Ten) each, credited as fully paid-up in the capital of the Transferee Company to all Equity Shareholders of the Transferor Companies whose names appear in the Register of Members, including the register and index of beneficial owners or to such of their respective heirs, executors, administrators or other legal representative or other successors in title as on a record date to be fixed by the Board of the Transferee Company, for every 25 (Twenty Five) Equity Shares having face value of Rs. 10/- (Rupees Ten) each held by the Shareholders of the Transferor Companies.*

20. The Applicant Companies shall serve the Notice in terms of Section 230 (5) of the Companies Act, 2013, upon -

- a. The Central Government, through Regional Director, Everest, 5th Floor, 100 Marine Drive, Mumbai-400002;
- b. The Registrar of Companies,

- c. GST Department
  - d. Jurisdictional Income Tax Authorities; within whose jurisdiction; the Applicant Company's assessment are made; and the Nodal Authority in the Income Tax Department having jurisdiction over such authority i.e. Pr. CCIT, Mumbai, Address:- 3 rd Floor, Aayakar Bhawan, Mahrishi Karve Road, Mumbai – 400 020, Phone No. 022-22017654 [E-mail: Mumbai.pccit@incometax.gov.in];
  - e. Official Liquidator, High Court of Bombay
21. Any other sectoral regulator as may be directed by this Hon'ble Tribunal.
22. The Notice shall be served through by Registered Post-AD, Speed Post and email along with copy of Scheme and state that "If no response is received by the Tribunal from the concerned Authorities within 30 days of the date of receipt of the notice it will be presumed that the concerned Authorities has no objection to the proposed Scheme". It is clarified that notice service through courier shall be taken on record only in cases where it is supported with Proof of Delivery having acknowledgement of the noticee.
23. The Applicant Companies will submit –
- a. Details of Corporate Guarantee, Performance Guarantee and Other Contingent Liabilities, if any.
  - b. List of pending IBC cases, if any, along with all other

litigation;

c. pending against the Applicant Companies having material impact on the proposed Scheme.

d. The Applicant Companies shall submit details of all Letters of Credit sanctioned and utilized as well as Margin Money details; if any.

24. The Applicant Companies to file an affidavit of service within 10 working days after serving to notice to all the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

25. The Appointed Date is 1st October, 2023.

26. Ordered Accordingly.

Sd/-  
**Prabhat Kumar**  
Member (Technical)

Sd/-  
**Justice V.G. Bisht**  
Member (Judicial)