

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV**

CA(CAA)-70/MB/2024

*In the matter of
Sections 230 to 232 and other applicable
provisions of the Companies Act, 2013*

and

*In the matter of
Scheme of Amalgamation of
Decent Gems Private Limited
(Transferor Company-1/
Applicant Company-1)*

and

***Destiny Diamond Private Limited**
(Transferor Company-2/
Applicant Company-2)*

and

***Diamond Fiscal Services Private Limited**
(Transferor Company-3/
Applicant Company-3)*

and

***Goldtech Infra Private Limited**
(Transferor Company-4/
Applicant Company-4)*

and

***Parinee Growers Private Limited**
(Transferor Company-5/
Applicant Company-5)*

and

Raheja Exports Private Limited
*(Transferor Company-6/
Applicant Company-6)*

and

Ramsons Steel Private Limited
*(Transferor Company-7/
Applicant Company-7)*

and

Vidi Infra Projects Private Limited
*(Transferor Company-8/
Applicant Company-8)*

with

Athwart Estate Investment Private Limited
*(Transferee Company/
Applicant Company-9)*

and their respective Shareholders.

Decent Gems Private Limited ... Applicant Company-1/
[CIN: U52100MH2010PTC206359] Transferor Company-1

Destiny Diamond Private Limited ... Applicant Company-2/
[CIN: U52393MH2010PTC205654] Transferor Company-2

Diamond Fiscal Services Private Limited ... Applicant Company-3/
[CIN: U65910MH1995PTC092398] Transferor Company-3

Goldtech Infra Private Limited ... Applicant Company-4/
[CIN: U45200MH2011PTC215439] Transferor Company-4

Parinee Growers Private Limited ... Applicant Company-5/
[CIN: U01403MH201OPTC210299] Transferor Company-5

Raheja Exports Private Limited ... Applicant Company-6/
[CIN: U51900MH1975PTC018379] Transferor Company-6

Ramsons Steel Private Limited ... Applicant Company-7/
[CIN: U27202MH1988PTC047385] Transferor Company-7

Vidi Infra Projects Private Limited ... Applicant Company-8/
[CIN: U45200MH2012PTC226400] Transferor Company-8

Athwart Estate Investments Private Limited ... Applicant Company-9/
[CIN: U67120MH1992PTC067583] Transferee Company

(hereinafter collectively referred to as the 'Applicant Companies')

Order pronounced on: **05.06.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearance :

For the Applicants : Mr. Ahmed M. Chunawala i/b Yahya
Batatawala, Advocates.

ORDER

1. This is an Application filed on 19.04.2024 jointly by Destiny Diamond Private Limited, and Diamond Fiscal Services Private Limited and Goldtech Infra Private Limited and Parinee Growers Private Limited and Raheja Exports Private Limited and Ramsons Steel Private Limited and Vidi Infra Project Private Limited and Athwart Estate Investment Private Limited under Sections 230 to 232 and other applicable provisions of the

Companies Act, 2013, seeking directions of this Bench for Scheme of Amalgamation of **Destiny Diamond Private Limited, Diamond Fiscal Services Private Limited, Goldtech Infra Private Limited, Parinee Growers Private Limited, Raheja Exports Private Limited, Ramsons Steel Private Limited and Vidi Infra Project Private Limited** (Transferor Companies) with **Athwart Estate Investment Private Limited** (Transferee Company) and their respective shareholders (the "Scheme").

2. The Applicants state that the Board of Directors of the Transferor Companies and the Transferee Company in their respective meetings held on 04.03.2024 have approved the Scheme. The Appointed Date fixed for the Scheme is 01.04.2023.

3. *Nature of Business:* The Counsel for the Applicant Companies submits that the Applicant Company-1 is engaged in the business of dealing in all variety of diamonds and precious stones, Company-2 in the business of dealing in all variety of diamonds and precious stones, Company-3 in the business of financial consultancy & advisory, Company-4 in the business of dealing in Real Estate like lands, flats, dwelling houses, shops, offices, industrial estate, lease of lands, flats and other immovable properties, Company-5 in the business of dealing in agricultural related products and food products, Company-6 in the business of dealing in general trading items, Company-7 in the business of dealing in iron & steel products like bars, wires, rods, angles, channels, tubes, pipes, poles, window fittings, panels, doors, etc., Company-8 in the business of construction of Infrastructure facilities like roads, highways, docks, ships,

sewers, bridges, canals, wells, springs, etc., Company-9 in the business of dealing in real estate and shares and securities.

4. ***Rationale of the Scheme:*** The Counsel for the Applicant Companies further submits that the proposed scheme of amalgamation will result in the following:

- i. The Transferee Company is desirous of consolidating the assets and liabilities of the Transferor Companies pursuant to amalgamation. By consolidating the businesses including all the assets and liabilities of the Transferor Companies, the Transferee Company can expand its current service territory and strengthen its existing market share.
- ii. Pursuant to the amalgamation, easier financial support will be available for the merged businesses.
- iii. The Scheme will result in the following benefits:
 - a. *combination of resources, creating better synergies, optimal utilisation of resources and greater economies of scale and deriving operating efficiencies from adoption of existing technology-enabled processes of the Transferor Companies.*
 - b. *More efficient utilization of capital for enhanced development and growth of the consolidated business under a single entity.*
 - c. *Enable opportunities for employees of the parties to grow, by bringing them into a common pool," and*
 - d. *Elimination of multiple entities, legal and regulatory compliances, and reduction of administrative costs.*

iv. *The Scheme is in the best interests of the shareholders, employees, and the creditors of each of the Parties.*

5. The Applicant Companies state that the Authorized, Issued, Subscribed and Paid-up Share Capital of the Applicant Companies as on date of its Board approving the Scheme are as under:

Transferor Company-1:

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

6. The Counsel for the Applicant Company-1 submits that there are 2 (Two) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from both the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by both the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company-1 is hereby dispensed with.

7. *Transferor Company-2:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

8. The Counsel for the Applicant Company-2 submits that there are 2 (Two) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from both the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by both the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company-1 is hereby dispensed with.

9. *Transferor Company-3:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
11,80,000 Equity Shares of Rs. 10/- each	11,18,00,000
TOTAL	11,18,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
11,60,200 Equity Shares of Rs. 10/- each	1,16,02,000
TOTAL	1,16,02,000

10. The Counsel for the Applicant Company-3 submits that there are 12 (Twelve) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from all the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by all the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

11. *Transferor Company-4:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

12. The Counsel for the Applicant Company-4 submits that there are 2 (Two) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from both the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by both the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

13. *Transferor Company-5:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

14. The Counsel for the Applicant Company-5 submits that there are 2 (Two) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from both the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by both the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

15. *Transferor Company-6:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
12,10,000 Equity Shares of Rs. 10/- each	1,21,00,000
TOTAL	1,21,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
12,01,000 Equity Shares of Rs. 10/- each	1,20,10,000
TOTAL	1,20,10,000

16. The Counsel for the Applicant Company-6 submits that there are 13 (Thirteen) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from all the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by all the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

17. *Transferor Company-7:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
5,40,000 Equity Shares of Rs. 100/- each	5,40,00,000
TOTAL	5,40,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
5,38,570 Equity Shares of Rs. 100/- each	5,38,57,000
TOTAL	5,38,57,000

18. The Counsel for the Applicant Company-7 submits that there are 10 (Ten) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from all the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by all the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

19. *Transferor Company-8:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
10,000 Equity Shares of Rs. 10/- each	1,00,000
TOTAL	1,00,000

20. The Counsel for the Applicant Company-8 submits that there are 2 (Two) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from all the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by all the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

21. *Transferee Company:*

Particulars	Amount (Rs.)
<u>Authorised Share Capital</u>	
1,32,000 Equity Shares of Rs. 100/- each	1,32,00,000
TOTAL	1,32,00,000
<u>Issued, Subscribed and Paid-up Share Capital</u>	
1,30,040 Equity Shares of Rs. 100/- each	1,30,04,000
TOTAL	1,30,04,000

22. The Counsel for the Applicant Company-9 submits that there are 13 (Thirteen) Equity Shareholders in the Applicant Company and that they have obtained the consent affidavits from all the Equity Shareholders of the Applicant Company.

In view of the consent affidavits given by all the Equity Shareholders of the Applicant Company, the meeting of the Equity Shareholders of the Applicant Company is hereby dispensed with.

23. The counsel for the Applicant Companies submits that there are no Secured Creditors in all the Applicant Companies. The Applicants have obtained certificate from the Independent Chartered Accountant, Pragesh S. Jain & Co., Chartered Accountant, confirming that there are no Secured Creditors in the Applicant Companies.

24. The counsel for the Applicant Companies further submits that there are 4 (Four) Unsecured Creditors having value of Rs.30,51,27,054/-. (Rupees Thirty Crores Fifty-One Lakhs Twenty-Seven Thousand and Fifty-Four) in Applicant Company-1 as on 31st January, 2024 and the four Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the four Unsecured Creditors of the Applicant Company-1 have given its consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-1 is hereby dispensed with.

25. The counsel for the Applicant Companies further submits that there are 3 (Three) Unsecured Creditors having value of Rs.29,49,09,237/- (Rupees

Twenty-Nine Crores Forty-Nine Lakhs Nine Thousand Two Hundred and Thirty-Seven) in Applicant Company-2 as on 31st January, 2024 and the three Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the three Unsecured Creditors of the Applicant Company-2 have given its consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-2 is hereby dispensed with.

26. The counsel for the Applicant Companies further submits that there are 6 (Six) Unsecured Creditors having value of Rs.40,90,79,460/- (Rupees Forty Crores Ninety Lakhs Seventy-Nine Thousand Four Hundred and Sixty) in Applicant Company-3 as on 31st January, 2024 and all the six Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the six Unsecured Creditors of the Applicant Company-3 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-3 is hereby dispensed with.

27. The counsel for the Applicant Companies further submits that there are 4 (Four) Unsecured Creditors having value of Rs. 35,91,83,910/- (Rupees Thirty-Five Crores Ninety-One Lakhs Eighty-Three Thousand Nine Hundred and Ten) in Applicant Company-4 as on 31st January, 2024 and all the six Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the four Unsecured Creditors of the Applicant Company-4 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-4 is hereby dispensed with.

28. The counsel for the Applicant Companies further submits that there are 8 (Eight) Unsecured Creditors having value of Rs.41,00,58,285/- (Rupees Forty-One Crores Fifty-Eight Thousand Two Hundred and Eighty-Five) in Applicant Company-5 as on 31st January, 2024 and all the eight Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the eight Unsecured Creditors of the Applicant Company-5 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-5 is hereby dispensed with.

29. The counsel for the Applicant Companies further submits that there are 11 (Eleven) Unsecured Creditors having value of Rs.1,02,68,58,000/- (Rupees One Hundred and Two Crores Sixty-Eight Lakhs and Fifty-Eight Thousand) in Applicant Company-6 as on 31st January, 2024 and all the twelve Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the twelve Unsecured Creditors of the Applicant Company-6 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-6 is hereby dispensed with.

30. The counsel for the Applicant Companies further submits that there are 10 (Ten) Unsecured Creditors having value of Rs.18,58,14,100/- (Rupees Eighteen Crores Fifty-Eight Lakhs Fourteen Thousand and One Hundred)

in Applicant Company-7 as on 31st January, 2024 and all the ten Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the ten Unsecured Creditors of the Applicant Company-7 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-7 is hereby dispensed with.

31. The counsel for the Applicant Companies further submits that there are 6 (Six) Unsecured Creditors having value of Rs. 53,79,55,100/- (Rupees Fifty-Three Crores Seventy-Nine Lakhs Fifty-Five Thousand and One Hundred) in Applicant Company-8 as on 31st January, 2024 and all the six Unsecured Creditors have given consent affidavits for the proposed Scheme.

In view of all the six Unsecured Creditors of the Applicant Company-8 have given their consent to the Scheme, the meeting of the Unsecured Creditors of the Applicant Company-8 is hereby dispensed with.

32. The counsel for the Applicant Companies further submits that there is 1 (One) Unsecured Creditor having value of Rs.1,66,95,000/- (Rupees One Crore Sixty-Six Lakhs and Ninety-Five Thousand) in Applicant Company-9 as on 31st January, 2024 and the sole Unsecured Creditor has given consent affidavit for the proposed Scheme.

In view of the sole Unsecured Creditor of the Applicant Company-9 has given its consent to the Scheme, the meeting of the Unsecured Creditor of the Applicant Company-9 is hereby dispensed with.

33. **Consideration:**

The Counsel for the Applicant Companies further submits that upon the Scheme becoming effective and in consideration of and subject to the provisions of this Scheme, the Transferee Company shall, without any further application, act, deed, consent, acts, instrument, or deed, issue and allot, on a proportionate basis to each shareholder of the Transferor Companies whose name is recorded in the register of members and records of the depository as members of the Transferor Companies as on the Effective Date, as under:

On Amalgamation of the Transferor Company-1 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 833 (Eight Hundred and Thirty-Three Only) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-1 i.e. 12 Shares".*

On Amalgamation of the Transferor Company-2 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 833 (Eight Hundred Thirty-Three Only) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-2 i.e. 12 Shares".*

On Amalgamation of the Transferor Company-3 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 68,247 (Sixty-Eight Thousand Two_Hundred and Forty-Seven Only) shares of fully paid-up Equity Shares of INR 10/- each held by such equity Shareholder in the Transferor Company-3 i.e. 17 Shares".*

On Amalgamation of the Transferor Company-4 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 833 (Eight Hundred and Thirty-Three) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-4 i.e. 12 Shares".*

On Amalgamation of the Transferor Company-5 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 833 (Eight Hundred and Thirty-Three) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-5 i.e. 12 Shares".*

On Amalgamation of the Transferor Company-6 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ('**Transferee Company New Equity Shares**"), shall be issued and allotted for every 80,067 (Eighty Thousand and Sixty-Seven) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-6 i.e. 15 Shares".*

On Amalgamation of the Transferor Company-7 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 41,428/- (Forty-One Thousand Four Hundred and Twenty-Eight only) shares of fully paid-up Equity Shares of INR 100/- each held by such equity shareholder in the Transferor Company-7 i.e. 13 Shares".*

On Amalgamation of the Transferor Company-8 with the Transferee Company

*"1 (One) fully paid-up Equity Shares of face value of INR 100/- each of the Transferee Company ("**Transferee Company New Equity Shares**"), shall be issued and allotted for every 833/- (Eight Hundred and Thirty-Three only) shares of fully paid-up Equity Shares of INR 10/- each held by such equity shareholder in the Transferor Company-8 i.e. 12 Shares".*

34. The Applicant Companies are directed to serve notice along with copy of Scheme upon the -
- i. Central Government through the office of Regional Director, Western Region, Mumbai;
 - ii. jurisdictional Registrar of Companies;
 - iii. jurisdictional Income Tax Authority within whose jurisdiction the respective Applicant Company's assessment are made clearly mentioning the PAN;
 - iv. concerned Nodal Officer in the Income Tax Department;
 - v. concerned RERA;
 - vi. concerned Goods and Service Tax Authorities; and
 - vii. the Official Liquidator, Bombay (in case of Transferor Companies);
35. The above notice shall be served through Registered Post AD/Speed Post and e-mail pursuant to section 230(5) of the Companies Act, 2013 and rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. The said notice will contain a statement that *"If no response is received by the Tribunal from such authorities within 30 days of the date of receipt of the notice, it will be presumed that they have no objection to the proposed Scheme"*.
36. The Applicant Companies shall host the notices along with a copy of the Scheme on their respective websites, if any.
37. 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;
 - c. details of all other litigation pending against the Applicant Company having material impact on the proposed Scheme;
 - d. details of all Letters of Credit sanctioned and utilized as well as Margin Money details, if any.
38. The Appointed Date is 01.04.2023.
39. The Applicant Companies to file an Affidavit of Service and Compliance Report within 10 working days after serving notice to all the Regulatory Authorities as stated above.
40. With the above directions, CA(CAA)-70/2024 is **allowed**.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

05.06.2024/pvs