

**THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH, AT MUMBAI**

CA (CAA)62(MB)/2024

*In the matter of
The Companies Act, 2013 (18 of 2013)
and
Section 232 r/w Section 230 and Section 66 of
The Companies Act, 2013 and other
applicable provisions of the Companies Act,
2013
read with the Companies (Compromises,
Arrangements and Amalgamations) Rules,
2016;*

*In the matter of
Composite Scheme of Amalgamation
of*

Alastair Commotrade Private Limited

CIN: U74120MH2010PTC308547

...Applicant Company 1/
Transferor Company 1

Ambition Trade Link Pvt Ltd

CIN: U51900MH2006PTC308546

...Applicant Company 2/
Transferor Company 2

Anandamoyee Trade-Link Private Limited

CIN: U51909MH2007PTC308596

...Applicant Company 3/
Transferor Company 3

Bindhachal Vyapaar Private Limited

CIN: U51109MH2007PTC308853

...Applicant Company 4/
Transferor Company 4

Bolero Merchants Private Limited

CIN: U52100MH2010PTC308152

...Applicant Company 5/
Transferor Company 5

Magnetic Vintrade Private Limited

CIN: U51909MH2010PTC377640

...Applicant Company 6/
Transferor Company 6

Steady Distributors Private Limited

CIN: U52100MH2010PTC377639

...Applicant Company 7/
Transferor Company 7

Bajrangbali Commosales Private Limited

CIN: U51101MH2009PTC308153

...Applicant Company 8/
Transferor Company 8

Ghanshyam Trade-Link Private Limited

CIN: U51909MH2008PTC376025

...Applicant Company 9/
Transferor Company 9

Rohit Iron and Steel (India) Pvt. Ltd.

CIN: U27100MH2004PTC146303

...Applicant Company 10/
Transferee Company

Order delivered on 13.05.2024

Coram:

Shri Prabhat Kumar

Hon'ble Member (Technical)

Justice V.G. Bisht (Retd.)

Hon'ble Member (Judicial)

Appearances (through)

For the Applicant Company

: Mr. Ashish Lalpuria,
PCS

ORDER

1. The present case is a Scheme of Amalgamation amongst **Alastair Commotrade Private Limited**, (Transferor Company 1); **Ambition Trade Link Pvt Ltd**, (Transferor Company 2); **Anandamoyee Trade-Link Private Limited**, (Transferor

Company 3); **Bindhachal Vyapaar Private Limited**, (Transferor Company 4); **Bolero Merchants Private Limited**, (Transferor Company 5); **Magnetic Vintrade Private Limited**, (Transferor Company 6); **Steady Distributors Private Limited**, (Transferor Company 7); **Bajrangbali Commosales Private Limited**, (Transferor Company 8) **Ghanshyam Trade-Link Private Limited**, (Transferor Company 9); with **Rohit Iron And Steel (India) Private Limited**, the (Transferee Company) and their respective shareholders under Sections 232 r/w Section 230 and Section 66 of the Companies Act, 2013 (hereinafter referred to as the “Act”) and read with Rule 3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the “Rules”) and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder.

2. The respective Board of Directors of Transferor Companies and the Transferee Company at its respective Board Meeting held on 06th January, 2024 approved the Scheme. The Appointed date of Scheme of Amalgamation is 1st April, 2023.
3. The Applicant Company 1 was incorporated on 25th day of May, 2010 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 2 was incorporated on 23rd day of January, 2006 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 3 was incorporated on 06th day of October, 2007 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 4 was incorporated on 26th day of

September, 2007 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 5 was incorporated on 17th day of May, 2010 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 6 was incorporated on 18th day of May, 2010 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 7 was incorporated on 19th day of May, 2010 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 8 was incorporated on 11th day of February, 2009 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 9 was incorporated on 03rd day of March, 2008 having registered office at Nagpur, Maharashtra with the object of trading of edible goods. The Applicant Company 10 was incorporated on 14th day of May, 2004 having registered office at Nagpur, Maharashtra with the object of trading of iron and steel

4. Rationale for the Scheme:

The First to Seventh Transferor Companies are Wholly Owned Subsidiaries of Transferee Company and 100% of the Share Capital of the Eighth and Ninth Transferor Companies are held by the Transferee Company through itself and its wholly owned subsidiaries.

The Transferor Companies and the Transferee Company are closely held and are owned, managed, controlled and promoted by the same family and therefore with a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate the

Transferor Companies with Transferee Company.

Further, some of the Transferor Companies do not have any significant business activities and generate most of their revenue from interest income which may result in attracting the provisions of Non-Banking Financial Companies (NBFC) and thus it is desired to amalgamate the same into Transferee Company so that the NBFC provisions are not attracted post-merger.

The amalgamation of Transferor Companies into the Transferee Company shall facilitate consolidation of all the undertakings to enable effective management and unified control of operations. This would enable streamlining the activities and consequently reducing managerial overlaps by reducing the number of companies under the same management and thus lead to reduction in administration efforts.

The proposed amalgamation of the Transferor Companies with the Transferee Company will result in an integration of diverse business under one umbrella and thereby achieving the synergistic benefits of consolidation of finances and operational efficiencies as the Transferee Company has sufficient financial and human resource.

The proposed amalgamation shall lead to a single company with rationalized structure, greater integration, financial strength and flexibility aiding in achieving economies of scale, sourcing benefits, vendor rationalization, more focused operational efforts, standardization and simplification of business processes and productivity improvements.

The Transferor Companies would be dissolved without being wound up, thereby ensuring a seamless transfer of all the assets and liabilities of the Transferor Companies into the Transferee

Company in the most economic and effective manner.

5. The Authorized, Issued, Subscribed and Paid Up Capital of the Applicant Companies are as under:

5.1. The Authorized, Issued, Subscribed and Paid-Up Capital of **Alastair Commotrade Private Limited, the Applicant Company 1** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 50,000 Equity Shares of Rs. 10/- Each	5,00,000
TOTAL	5,00,000
Issued, Subscribed and Paid up Capital 45,000 Equity Shares of Rs. 10/- each fully paid up	4,50,000
TOTAL	4,50,000

5.2. The Authorized, Issued, Subscribed and Paid-Up Capital of **AMBITION TRADE LINK PVT LTD, the Applicant Company 2** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 3,70,000 Equity Shares of Rs. 10/- Each	37,00,000
TOTAL	37,00,000
Issued, Subscribed and Paid up Capital 3,56,000 Equity Shares of Rs. 10/- each fully paid up	35,60,000
TOTAL	35,60,000

5.3. The Authorized, Issued, Subscribed and Paid-Up Capital of **ANANDAMOYEE TRADE-LINK PRIVATE LIMITED, the Applicant Company 3** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 6,50,000 Equity Shares of Rs. 10/- Each	65,00,000
TOTAL	65,00,000

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Issued, Subscribed and Paid up Capital 6,47,500 Equity Shares of Rs. 10/- each fully paid up	64,75,000
TOTAL	64,75,000

5.4. The Authorized, Issued, Subscribed and Paid-Up Capital of **BINDHACHAL VYAPAAR PRIVATE LIMITED, the Applicant Company 4** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 6,50,000 Equity Shares of Rs. 10/- Each	65,00,000
TOTAL	65,00,000
Issued, Subscribed and Paid up Capital 6,49,000 Equity Shares of Rs. 10/- each fully paid up	64,90,000
TOTAL	64,90,000

5.5. The Authorized, Issued, Subscribed and Paid-Up Capital of **BOLERO MERCHANTS PRIVATE LIMITED, the Applicant Company 5** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 50,000 Equity Shares of Rs. 10/- Each	5,00,000
TOTAL	5,00,000
Issued, Subscribed and Paid up Capital 45,000 Equity Shares of Rs. 10/- each fully paid up	4,50,000
TOTAL	4,50,000

5.6. The Authorized, Issued, Subscribed and Paid-Up Capital of **MAGNETIC VINTRADE PRIVATE LIMITED, the Applicant Company 6** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 40,000 Equity Shares of Rs. 10/- Each	4,00,000

TOTAL	4,00,000
Issued, Subscribed and Paid up Capital 40,000 Equity Shares of Rs. 10/- each fully paid up	4,00,000
TOTAL	4,00,000

5.7. The Authorized, Issued, Subscribed and Paid-Up Capital of **STEADY DISTRIBUTORS PRIVATE LIMITED, the Applicant Company 7** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 40,000 Equity Shares of Rs. 10/- Each	4,00,000
TOTAL	4,00,000
Issued, Subscribed and Paid up Capital 40,000 Equity Shares of Rs. 10/- each fully paid up	4,00,000
TOTAL	4,00,000

5.8. The Authorized, Issued, Subscribed and Paid-Up Capital of **BAJRANGBALI COMMOSALES PRIVATE LIMITED, the Applicant Company 8** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 7,20,000 Equity Shares of Rs. 10/- Each	72,00,000
TOTAL	72,00,000
Issued, Subscribed and Paid up Capital 7,19,500 Equity Shares of Rs. 10/- each fully paid up	71,95,000
TOTAL	71,95,000

5.9. The Authorized, Issued, Subscribed and Paid-Up Capital of **GHANSHYAM TRADE-LINK PRIVATE LIMITED, the Applicant Company 9** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
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Authorised Capital 6,60,000 Equity Shares of Rs. 10/- Each	66,00,000
TOTAL	66,00,000
Issued, Subscribed and Paid up Capital 6,53,000 Equity Shares of Rs. 10/- each fully paid up	65,30,000
TOTAL	65,30,000

5.10. The Authorized, Issued, Subscribed and Paid-Up Capital of **ROHIT IRON AND STEEL (INDIA) PRIVATE LIMITED, the Applicant Company 10** as on the 31st day of March, 2023 is as under:

Authorised Capital	Amount Rs.
Authorised Capital 1,20,00,000 Equity Shares of Rs. 10/- Each	12,00,00,00 0
TOTAL	12,00,00,00 0
Issued, Subscribed and Paid up Capital 99,71,378 Equity Shares of Rs. 10/- each fully paid up	9,97,13,780
TOTAL	9,97,13,780

6. CONSIDERATION for the Scheme:

The Learned Authorised Representative for the Applicants submit that since the present Application is for merger of wholly owned subsidiary companies into its holding company, no shares would be issued or allotted as consideration pursuant to the arrangement.:

7. That there are two equity shareholders in the Transferor Company 1 holding 45000 equity shares of Rs.10 each and the Applicant Company 1 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 1 has their consent in consent

affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 1 does not arise and hence dispensed with.

8. That there are two equity shareholders in the Transferor Company 2 holding 356000 equity shares of Rs.10 each and the Applicant Company 2 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 2 has their consent in consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 2 does not arise and hence dispensed with.
9. That there are two equity shareholders in the Transferor Company 3 holding 647500 equity shares of Rs.10 each and the Applicant Company 3 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 3 has their consent in consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 3 does not arise and hence dispensed with.
10. That there are two equity shareholders in the Transferor Company 4 holding 649000 equity shares of Rs.10 each and the Applicant Company 4 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 4 has their consent in consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 4 does not arise and hence dispensed with.
11. That there are two equity shareholders in the Transferor Company 5 holding 45000 equity shares of Rs.10 each and the Applicant Company 5 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 5 has given their consent in

consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 5 does not arise and hence dispensed with.

12. That there are two equity shareholders in the Transferor Company 6 holding 40000 equity shares of Rs.10 each and the Applicant Company 6 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 6 has given their consent in consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 6 does not arise and hence dispensed with.
13. That there are two equity shareholders in the Transferor Company 7 holding 40000 equity shares of Rs.10 each and the Applicant Company 7 is the wholly owned subsidiary of Transferee Company. Both the equity shareholder of the Transferor Company 7 has given their consent in consent affidavit for approval of the scheme. In view of the consent given by both the shareholders, the question of convening of meeting of Transferor Company 7 does not arise and hence dispensed with.
14. That there are three equity shareholders in the Transferor Company 8 holding 7,19,500 equity shares of Rs.10 each. All the equity shareholder of the Transferor Company 8 has given their consent in consent affidavit for approval of the scheme. In view of the consent given by all the shareholders, the question of convening of meeting of Transferor Company 8 does not arise and hence dispensed with.
15. That there are three equity shareholders in the Transferor Company 9 holding 6,53,000 equity shares of Rs.10 each. All the equity shareholder of the Transferor Company 9 has given their consent in consent affidavit for approval of the scheme. In view of the consent given by all the shareholders, the question of convening of meeting of Transferor

Company 9 does not arise and hence dispensed with.

16. That there are fifteen equity shareholders in the Transferee Company holding 92,71,378 equity shares of Rs.10 each. All the equity shareholder of the Transferee Company has given their consent in consent affidavit for approval of the scheme. In view of the consent given by all the shareholders, the question of convening of meeting of Transferee Company does not arise and hence dispensed with.
17. There are **no secured and unsecured creditors in Transferor Companies 1 to 9** as on 31st December, 2023. Copies of Certificates issued by Chartered Accounts certifying that there are no secured and unsecured creditors are annexed with the Petition. In view this, the question of convening of meeting of secured and unsecured creditors of Transferor Companies does not arise and hence dispensed with.
18. **There are 2 (two) Secured creditors** i.e. ICICI Bank Limited and Kotak Mahindra Bank having secured credit of Rs.15,11,66,899/- in the **Transferee Company** as on 31st December, 2023 which has been duly certified by a certificate issued by Chartered Accountant.
19. There are **145 (One Hundred and Forty-Five) unsecured creditors** in the Transferee Company as on 31st December, 2023 having unsecured credit of Rs. 1,41,10,16,648/- which has been duly certified by a certificate issued by Chartered Accountant.
 - 19.1. **Being a merger of wholly owned subsidiary companies into its holding company**, no shares would be issued or allotted as consideration pursuant to the merger. Accordingly, the rights of members of the Transferee Company are not affected since there will be no issue of shares pursuant to the Scheme and there would be absolutely no increase in the equity share capital of the

Transferee Company.

- a) The rights of the creditors of the Transferee Company are not affected since there will be no reduction in their claims and the assets of the Transferee Company, post amalgamation, will be more than sufficient to discharge their claims. Also, the **net worth of the Transferee Company is and will continue to remain highly positive post-merger.**
- b) The **existence of the Transferee Company will remain as before without any change to its debt position** pursuant to the Scheme. Moreover, only the paid-up share capital of the Company will stand reduced by Rs. 3,60,00,360/- on account of cancellation of the equity shares held by the Transferor Companies.
- c) No undertaking of the Transferor Companies is being parted away or being disposed-off and hence provisions of section 180 of the Companies Act, 2013 are also not applicable.
- d) The Learned Authorised Representative for the Applicants further submits that in view of the above, **no reconstruction or arrangement happens with its shareholders or creditors, and thus, the transferee company does not require to hold secured creditors and unsecured creditors meeting for approval of the proposed Scheme in view of ratio laid down by this Tribunal** in CA(CAA) No 243 of 2017 in the matter of Housing Development Finance Corporation Limited, in CA(CAA) No. 915 of 2017 in the matter of Godrej Consumer Products Limited, in CA(CAA) No. 899 of 2017 in case of Mahindra CIE Automotive Limited, in

CA(CAA) No. 1019 of 2017 in case of Godrej Properties Limited, in CA(CAA) No. 1615 of 2018 in case of Dolvi Minerals and Metals Private Limited, in CA(CAA) No. 396 of 2019 in JSW Logistic Infrastructure Private Limited, in CA(CAA) No. 1611 of 2019 in CEAT Specialty Tyres Limited, in CA(CAA) No. 3123 of 2019 in JAI Corp Limited and in CA(CAA) No. 4149 of 2019 in Godrej Properties Limited and CA(CAA) No.634 of 2020 in Asian Paints Limited and CA(CAA) No 1037 of 2020 in Armstrong World Industries (India) Private Limited and also confirmed by the **Hon'ble National company Law Appellate Tribunal, New Delhi in the matter of Ambuja Cements Limited in Company Appeal (AT) No. 19 of 2021 dated 06th April, 2021.**

20. We considered the submissions of the learned Authorized of the Applicant Companies and reliance laid down by them and feels it appropriate since amalgamation is between the transferor cono reconstruction or arrangement happens with its shareholders or creditors, and thus, the transferee company does not require to hold secured creditors and unsecured creditors meeting for approval of the proposed Scheme, hence meeting are dispense with. However, this Bench directs the Applicant Companies to issue notice to the each secured as well as unsecured creditors by way of Speed Post/Regd. Post, email and hand delivery alongwith copy of the scheme as well as company Petition with a direction that they may submit their representation/objection for approval of the scheme within 30 days from the date of receipt of notice with this Tribunal. It is clear that, if no representation received by this Tribunal, it will be presumed that the creditors have no objection for approval of the scheme. The Applicant

Companies are directed to file affidavit of compliance alongwith the Company Petition.

21. The Applicant Companies are directed to serve notices along with copy of scheme upon: -

- (a) the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra,
- (b) Registrar of Companies, Mumbai
- (c) Income Tax Authorities within whose jurisdiction the respective applicant companies are assessed to tax
- (d) The Official Liquidator, Nagpur
- (e) Principal Chief Commissioner of Income tax being the Nodal Authority, at Aayakar Bhavan, Mumbai;

with a direction that they may submit their representations, if any, within a period of 30 (thirty) days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the respective Applicant Companies.

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 –

- i. Details of Corporate Guarantee, Performance Guarantee

and Other Contingent Liabilities, if any.

- ii. List of pending IBC cases, if any, along with all other litigation;
- iii. pending against the Applicant Companies having material impact on the proposed Scheme.
- iv. 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.

Sd
Prabhat Kumar
Member (Technical)

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