

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
AT NEW DELHI**

CA. CAA-95/ND/2017

**Under Section 230-232 and other applicable provisions of the Companies Act,
2013 read with Companies (Compromises, Arrangements and Amalgamations)
Rules, 2016**

In the matter of:
Scheme of Amalgamation

BETWEEN

1. Andaz Infrastructure Private Limited
(Transferor Company No. I/Applicant Company No. 1)
AND
2. Angad Marketing Private Limited
(Transferor Company No. II/Applicant Company No. 2)
AND
3. Aanchal Vintrade Private Limited
(Transferor Company No. III/Applicant Company No. 3)
AND
4. Cherry Merchants Private Limited
(Transferor Company No. IV/Applicant Company No. 4)
AND
5. Diyara Dealcomm Private Limited
(Transferor Company No. V/Applicant Company No. 5)
AND



6. Matasyagandha Commercial Services Private Limited

(Transferor Company No. VI/Applicant Company No. 6)
AND

7. Mridang Suppliers Private Limited

(Transferor Company No. VII/Applicant Company No. 7)
AND

8. Silpi Commotrade Private Limited

(Transferor Company No. VIII/Applicant Company No. 8)
WITH

9. Aniket Tie-Up Private Limited

(Transferee Company /Applicant Company No. 9)

Judgement delivered on: 08/08/2017

CORAM:

MS. INA MALHOTRA, MEMBER (JUDICIAL)

MR. S.K. MOHAPATRA, MEMBER (TECHNICAL)

For Applicant: Kunal Tondon, Advocate



Per: S. K. Mohapatra, Member (Technical)

ORDER

(Reserved on 01.08.2017)

1. This Application has been jointly filed by the Applicant Companies under sections 230 and 232 of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and the National Company Law Tribunal Rules, 2016, duly supported by the separate affidavits of the Applicant Companies, for seeking appropriate orders/directions for dispensing with/convening of the respective meetings of Shareholders, Secured Creditors and Un-secured Creditors of the Applicant Companies, in connection with the proposed Scheme of Amalgamation of all the transferor companies with the transferee company. The said Scheme of Amalgamation (hereinafter referred to as the "SCHEME") is also placed on record along with the joint Application.
2. It is represented that the registered office of all the applicant companies are situated in New Delhi and therefore the subject matter of this joint application falls within the Jurisdiction of this Bench.
3. The Andaz Infrastructure Private Limited, (transferor company no. 1) was incorporated on September 10, 2009 under the provisions of the Companies



Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No.1, is Rs. 50, 00, 000/- divided into 5,00, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.46,05,000/- divided into 4,60,500 equity shares of Rs. 10/- each. The objective of Transferor Company No. 1 is undertaking construction, erection, engineering work related to real estate. It is further represented that the entire paid up share capital of the Applicant Company 1 is held directly or indirectly by Transferee Company.

4. It is submitted that the transferor company no. 1 has 5 Equity Shareholders as on 30.06.2017 and all the equity shareholders have given their consent to the Scheme constituting 100% in value and 100% in number. It is further represented by the counsel for Applicants that the Transferor Company No. 1 has no Secured Creditor nor has any Unsecured Creditor. Certificate of chartered accountant in this regard has been placed on record. As the Company has no creditor the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders the Transferor Company No. 1, also seeks dispensation from convening and holding of their meeting on the ground that all shareholders have given consent to the Scheme.



5. Angad Marketing Private Limited ("Transferor Company no. 2") was incorporated on January 15, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor Company No.2, is Rs. 2, 00, 000/- divided into 20, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs.1,42, 000 /- divided into 14,250 equity shares of Rs. 10/- each. The objective of Transferor Company no. 2 is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Transferor Company No. 2 is held directly or indirectly by Transferee Company.
6. It is submitted that the transferor company no. 2 has 2 Equity Shareholders as on 30.06.2017 and consent affidavits from both the shareholders have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 2 as on 30.06.2017 has no Secured Creditors and Unsecured Creditors. Certificate of chartered accountant certifying that transferor company no. 2 does not have any secured nor any unsecured creditor has been placed on record. Therefore, the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders, the Transferor Company No. 2, seeks



dispensation from convening and holding of their meeting as all the two shareholders of the company have given their consent to the Scheme.

7. Aanchal Vintrade Private Limited (Transferor Company no. 3) was incorporated on January 08, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 3, is Rs. 2,00,000/- divided into 20, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,44,000 /- divided into 14,400 equity shares of Rs. 10/- each. The objective of transferor Company No. 3, is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Applicant Company 3 is held directly or indirectly by Transferee Company.
8. It is submitted that the transferor company no. 3 has 2 Equity Shareholders as on 30.06.2017, from whom consent affidavits in favour of the Scheme have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 3 as on 30.06.2017 has no Secured Creditors nor any Unsecured Creditor. Certificate of chartered accountant in this regard has been placed on record. It is stated that in the absence of any creditor of the company, the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders the Transferor Company



No. 3, seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

9. Cherry Merchants Private Limited Transferor Company no. 4”) was incorporated on January 15, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 4, is Rs. 2,00,000/- divided into 20, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,61,500 /- divided into 16,150 equity shares of Rs. 10/- each. The objective of transferor Company no. 4 is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Applicant Company 4 is held directly or indirectly by Transferee Company

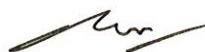
10. It is submitted that the transferor company no. 4 has 2 Equity Shareholders as on 30.06.2017, from whom consent affidavits in favour of the Scheme have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 4 as on 30.06.2017 has no Secured Creditors nor has any Unsecured Creditors. Certificate of chartered accountant in this regard has been placed on record. In the absence any creditor, the requirement of convening meetings of secured and unsecured



creditor does not arise. In relation to the shareholders the Transferor Company No. 4, Company seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

11. Diyara Dealcomm Private Limited Transferor Company No. 5³ was incorporated on January 08, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 5, is Rs. 2,00,000/- divided into 20, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,77,000 /- divided into 17,700 equity shares of Rs. 10/- each. The objective of transferor Company no. 5 is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Applicant Company 5 is held directly or indirectly by Transferee Company.

12. It is submitted that the transferor company no. 5 has 2 Equity Shareholders as on 30.06.2017, from whom consent affidavits in favor of the Scheme have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 5 as on 30.06.2017 has no Secured Creditors nor has any Unsecured Creditors. Certificate of chartered accountant in this regard has been placed on record. The requirement of convening meetings of secure and



unsecured creditor does not arise as the company has no creditor at all. In relation to the shareholders the Transferor Company No. 5 seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

13. Matasyagandha Commercial Services Private Limited (Transferor Company no. 6”) was incorporated on March 16, 1995 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 6, is Rs. 1,22,80,000/- divided into 12,28,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,09,10,000/- divided into 10,91,000 equity shares of Rs. 10/- each. The objective of transferor Company no. 6 is trading in merchandise and article of all kinds. The entire paid up share capital of the Applicant Company 6 is held directly or indirectly by Transferee Company.

14. It is submitted that the transferor company no. 6 has 7 Equity Shareholders as on 30.06.2017, from whom consent affidavits in favor of the Scheme have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 6 as on 30.06.2017 has no Secured Creditor. It has however one Unsecured Creditors who has given consent in favour of the Scheme. Certificate of chartered accountant in this respect and consent



affidavit of the sole unsecured creditor have been placed on record. Therefore, it is contended that the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders, the Transferor Company No. 6 seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

15. Mridang Suppliers Private Limited (Transferor Company No. 7) was incorporated on January 08, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 7, is Rs. 2,00,000/- divided into 20,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,76,000/- divided into 17,600 equity shares of Rs. 10/- each. The objective of Transferor Company No. 7 is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Applicant Company 7 is held directly or indirectly by Transferee Company.

16. It is submitted that the transferor company no. 7 has 2 Equity Shareholders as on 30.06.2017 and consent affidavits of both the shareholders have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 7 as on 30.06.2017 has no Secured Creditor nor



has any Unsecured Creditors. Certificate of chartered accountant in this regard has been placed on record. In the absence of any creditor, the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders, the Transferor Company No. 7 seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

17. Silpi Commotrade Private Limited (Transferor Company No. 8) was incorporated on January 08, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized capital of the Transferor company No. 8, is Rs. 2, 00, 000/- divided into 20, 000 equity shares of Rs. 10/- each. The issued, subscribed and Paid- up capital of the company is Rs. 1,65,500/- divided into 16,550 equity shares of Rs. 10/- each. The objective of Transferor Company No. 8 is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials. The entire paid up share capital of the Applicant Company 8 is held directly or indirectly by Transferee Company.

18. It is submitted that the transferor company no. 8 has 2 Equity Shareholders as on 30.06.2017 and consent affidavits from both the shareholders have been obtained. It is further represented by the counsel for Applicants that the Transferor Company No. 8 as on 30.06.2017 has no



Secured Creditors nor has any Unsecured Creditors. Certificate of chartered accountant in this respect has been placed on record. As the company has no creditor the requirement of convening meetings of secured and unsecured creditor does not arise. In relation to the shareholders, the Transferor Company No. 8 seeks dispensation from convening and holding of their meeting as consent of all shareholders of the company in favour of the Scheme has been obtained.

19. Aniket Tie-Up Private Limited (Transferee Company) was incorporated on January 15, 2010 under the provisions of the Companies Act, 1956, having its registered office at 26, Barakhamba Road, Room No. 1005, 10th Floor, Nirmal Tower, New Delhi-110001. The authorized share capital of the Transferee company is Rs. 2, 00, 00,00/- divided into 20,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid-up capital is Rs. 1,67,000 divided into 16,700 equity shares of Rs. 10/- each. The objective of Transferee Company is trading and dealing in all kinds of goods, including manufactured goods, semi manufactured goods and raw materials.

20. It is submitted that the transferee Company has 4 Equity Shareholders as on 30.06.2017, from whom consent affidavits in favour of the Scheme have been obtained. It is further represented by the counsel for Applicants that the Transferee Company as on 30.06.2017 has no Secured Creditor. It is stated that the transferee has 6 Unsecured Creditors, all of whom consisting 100%



in value and ~~number~~ have given consent in favour of the Scheme. Therefore the requirement of convening meetings of secured and unsecured creditor does not arise. Similarly as all the shareholders have already given consent to the Scheme, the Transferee Company seeks dispensation from convening and holding of meeting of shareholders.

21. We have perused the joint applications and the connected documents / papers filed herewith including the Scheme of Amalgamation contemplated between the Applicant companies.
22. All the applicants have filed their respective Memorandum and Articles of Association as well as their last available audited financial statements for the year ended 31.03.2017.
23. It is stated that the transferor companies and the transferee company are engaged in a similar line of business. The rationale as provided in the Scheme is reproduced below:

- 1. Simplification of the Group Structure by elimination of multiple entities and thereby consolidating all the investments in a single company.*
- 2. Greater efficiency in resource management, cost savings, resulting from rationalization, standardization and simplification of business and group structure.*



- 3. Improved organizational capabilities arising from pooling of financial, managerial and technical resources.*
- 4. The consolidation would result in achieving greater administrative efficiency and thereby resulting in significant reduction in administrative, managerial and other expenditure and regulatory compliances.*

19. It is further submitted that the board of director of the transferor companies and the transferee company have decided to amalgamate the transferor companies together with its business and undertakings, with transferee company, so as to achieve benefits as set out in 'Rationale of the Scheme of Amalgamation' that forms part of the proposed Scheme of Amalgamation. The Board of Directors of the Transferor companies and transferee company vide separate meetings, on 19.06.2017 have unanimously approved the proposed Scheme of Arrangement and copies of resolutions passed thereat have been placed on record by the companies.

20. It is submitted that the proposed merger is sought to be made under the provisions of Section 230 to 232 of the Companies Act, 2013, and the Same if sanctioned by this Tribunal, will take effect from April 1st, 2017, i.e. the Appointed date as provided in the Scheme. Upon this Scheme becoming effective, the Transferor companies shall stand dissolved without following process of winding up.



21. The statutory auditor has certified on 30.06.2017 that the accounting treatment proposed in the scheme is in conformity with the accounting standards prescribed under section 133 of the Companies AC, 2013.
22. It has been submitted that the proposed Scheme is not prejudicial to the interest of the equity shareholders and creditors of the Applicant Companies. It is further submitted that the Scheme will be beneficial to the Applicant Companies and their respective shareholders and creditors.
23. All the companies have submitted that no investigation proceedings are pending against them either under Sections 235 to 251 of the Companies Act, 1956 or under Sections 210 to 226 of the Companies Act, 2013. Further, the applicant companies have also stated that the Scheme does not involve any corporate debt restructuring exercise.
24. It is submitted that no investigation proceedings are pending under section 210 or any other applicable provisions of the Companies Act, 2013 against the transferor companies and Transferee Company. It is also stated that no prejudice will be caused to anyone if orders are made and/or directions are given as prayed for.



25. Taking into consideration the application filed jointly by the Transferor companies and the Transferee company the following directions are issued: -

A) In relation to the Transferor Company No. 1:-

- (i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only five equity shareholders in the company and their consent affidavits have been placed on record.
- (ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

B) In relation to the Transferor Company No. 2:-

- (i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.
- (ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

C) In relation to the Transferor Company No. 3:-



(i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.

(ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

D) In relation to the Transferor Company No. 4:-

(i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.

(ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

E) In relation to the Transferor Company No. 5:-

(i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.



(ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

F) In relation to the Transferor Company No. 6:-

(i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only seven equity shareholders and their consent affidavits have been placed on record.

(ii) The meeting of Secured Creditor is also dispensed with because there is no Secured creditor in the company. Similarly meeting of Unsecured Creditor is dispensed with as the only unsecured creditor of the company has given his consent affidavit in favour of the Scheme.

G) In relation to the Transferor Company No. 7:-

(i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.

(ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and



therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

H) In relation to the Transferor Company No. 8:-

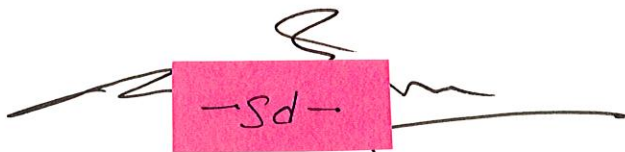
- (i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only two equity shareholders and their consent affidavits have been placed on record.
- (ii) The meeting of Secured and Unsecured Creditor are also dispensed with because there is no Secured and Unsecured Creditor in the company and therefore, the requirement of convening meeting of Secured and Unsecured creditor does not arise.

I) In relation to Transferee Company:

- (i) With respect to Equity Shareholders, the holding of meeting is dispensed with as there are only four equity shareholders and their consent affidavits have been placed on record.
- (ii) The meeting of Secured Creditor is also dispensed with because there is no Secured Creditor in the company. Similarly, the meeting of Unsecured Creditors is dispensed with as all the six unsecured creditors of the company have given their consent affidavits in favour of the Scheme.

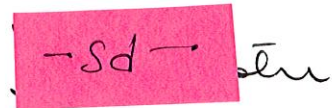
In view of the above the present joint application stands allowed by dispensing with the meetings of shareholders and creditors of all the applicant companies.

Copy of the order be served to the parties.



(S. K. MOHAPATRA)

MEMBER (T)



(INA MALHOTRA)

MEMBER (J)

SHIPRA MITTAL