

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

J.C.M. No. 21 of 2019

DATE

ORDER WITH SIGNATURE OF JUDGE

For hearing of Main Petition

24.10.2019

**Mr. Michael Azmat Rahim alongwith Ms. Bisma, Advocates for
Petitioners.**

Mr. Saad Abbasi, Advocate for SECP.

This is a Petition under Section 279 to 283 and 285(8) of the Companies Act 2017 for approval of the Scheme of Arrangement dated 01.03.2019, as entered into by the petitioner(s) and more expressly stated in Annexure “D” to this Petition. The crux of the Scheme of Arrangement is to obtain sanction of this Court for amalgamation of the Petitioners No.2 and 3 with and into the Petitioner No.1, whereby the entire undertakings and business, inclusive of all assets, properties, rights, liabilities, obligations and dues of the Petitioners No.2 and 3, as more particularly described in the Scheme of Arrangement, will be transferred to, stand vested in, and be assumed by Petitioner No.1. Upon the sanction of the Scheme of Arrangement, the Petitioner No.1 will continue as a going concern under the name Atlas Autos (Private) Limited and the Petitioners No.2 and 3 shall be dissolved and will cease to exist without winding up in the manner contemplated under the Scheme of Arrangement.

It appears that Petitioner No.1 was incorporated on 16.03.2011 and is carrying on the business of, inter alia, setting up, establishing, acquiring and operating plants for the progressive manufacturing, assembly and production of industrial, agricultural and farm machinery, equipment, automotive vehicles and motorcycles of all sorts and description, and auto parts of all sorts, spares, bodies and engines used for or in connection with any of the aforementioned and other machinery or equipment, along with carrying on the business of foundries, mechanical engineers, manufacturers, dealers, consultants, importers, exporters of all kinds of auto parts, accessories, tools, gas, generators, engines, tires, rubber goods, tubes, radiators, speedometers, wheels and accessories of all kind which may be useful for or conducive to the carrying on of the business of Petitioner No.1. The Petitioner No.1 is generally engaged in the manufacturing, processing and trading of automotive parts, components, accessories and tools, including automotive and logistic services.

The Petitioner No.2 was incorporated on 29.07.2016 and is carrying business of establishing, acquiring and operating plants for the progressive manufacturing, assembly and production of industrial, agricultural and farm machinery, equipment, and implements, motorcycles of all sorts and description, earth moving equipment, accessories, attachments and auto parts of all sorts, spares, bodies and engines used for or in connection with any of the aforementioned and other machinery or equipment, along with producing and developing tools, dies and moulds and to provide services in the areas of design and manufacturing, producing aluminium parts for high pressure dies casting, gravity die casting and low pressure dies casting foundries and processes, and carrying on the trade or business of sheet metal parts, aluminium parts including assemblies and sub-assemblies, light engineering, iron masters, steel markers etc. in all the fields. The Petitioner No.2 is generally engaged in the manufacturing, processing and trading of dies, automotive parts, components, accessories and tools.

The Petitioner No.3 was incorporated on 18.08.2016 and is carrying business of establishing, acquiring and operating plants in Pakistan or elsewhere to carry on business of recycling of all ferrous and non-ferrous metals, alloys, polymers, plastics of all sorts and descriptions, including crushing, separating, reclaiming, melting, re-melting, smelting, cleaning, softening, refining, alloying, casting and foundry thereof, along with carrying on the business and process of forging, felting, grinding, threading, coiling etc.

It further appears now the Petitioners have agreed and entered into an agreement being the Scheme of Arrangement dated 17.05.2019 (**Annexure “D”**) for the proposed amalgamation which has been duly approved by the respective Board of Directors of the Petitioners and such resolutions have been placed on record. The Scheme of Arrangement, also gives full particulars as to its benefits, the purpose for the same, the consequences of the arrangement, the effective date, consideration and related matters, reduction in the issued and paid up capital thereof, and general provisions with respect to the arrangement. Such Scheme of Arrangement is part and parcel of the petition. It further appears that since Petitioner No.2 & 3 are wholly owned subsidiaries of Petitioner No.1, therefore, no shares of Petitioner No.1 are to be issued to members of Petitioner No.2 & 3, and this fact has also been confirmed by the Chartered Accountants report dated 15.5.2019. By seeking sanction of the Scheme of Arrangement through this Petition under the Companies Act, as above, the intention is to obtain approval of the terms, so stated in the Scheme of Arrangement in which the entire details have been incorporated including the shareholding of respective Petitioners.

On 03.06.2019 an application bearing (CMA No.149/2019) on behalf of the Petitioners under Rule 55 of the Companies (Court Rules), 1997, read with Section 151 CPC, the Court had permitted to convene separate meeting(s) of the members of the petitioners under Section 279(2) of the Companies Act, 2017 after publishing a notice in newspapers, and also inviting creditors, whereas, further directions were given for advertisement of the main Petition for publishing in terms of Rule 76 read with Rule 19 of the Companies (Court) Rules, 1997 and notice was also ordered to Securities & Exchange Commission of Pakistan. It appears that all requisite formalities have been completed as publication has been made in daily "The News" dated 28.06.2019 and daily "JANG" dated 28.06.2019. As per rules a proper notice has also been published in the Gazette of Pakistan dated 24.07.2019. It further appears that report has been furnished by the Chairmen in respect of petitioners regarding conduct of such meetings. Comments have been filed by SECP and there was initially one objection for No objection from the secured creditors of Petitioner No.1, which stands complied with and Counsel for SECP has today given his consent for grant of this petition.

In view of such position, since all formalities have been completed, whereas, there appears to be no impediment in granting this Petition which is accordingly allowed as prayed. For further proceedings and necessary fulfilment of the requirements under the Companies Act, 2017, the Petitioner may approach SECP accordingly.

J U D G E

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