

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

J.C.M. No. 20 of 2019

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of Main Petition.
2. For orders on CMA No. 238/2019 (U/S 151 CPC)

06.03.2020.

Mr. Rashid Anwer, Advocate for Petitioners.

Mr. Saad Abbasi, Advocate for SECP.

This is a Petition under Section 279 to 283 of the Companies Act, 2017, seeking approval / sanction of a Scheme of Arrangement, whereby, Petitioner No.1 **Naveena Industries Limited (NIL)** is transferring NIL undertaking to Petitioner No.2 **Naveena Holding Limited (NHL)**. The Petitioner No.1 is a private limited company and its authorized capital is Rs.250,000,000 divided into 25,000,000 ordinary shares of Rs.10 each out of which 19,95,7224 shares have been fully subscribed and paid up.

The Petitioner No.2 is a newly incorporated company which was set up, to perform the function of a Group Holding Company and as such is to take over the NIL Undertaking. The authorized capital of NHL is Rs.125,000,000/- divided into 12,500,000 ordinary shares of Rs.10 each out of which 1000 shares have been fully subscribed and paid up.

The Petitioners are desirous to restructure and merge, by way of amalgamation, with the object of better and more economic reasons to run the same business. The Board of Directors of the Petitioner Nos. 1 and 2 have considered various options, ways and means available to improve their business with the ultimate aim of maximizing shareholder returns. They have accordingly formulated the **Scheme of Arrangement (Annexure "C")**, annexed with the Petition. The Petitioner intend to transfer the **NIL** Undertaking (as defined in the Scheme) from **NIL** to **NHL** against the issuance of ordinary shares of **NHL** to each of the Khalid Family Members in the same proportion as their existing shareholding in **NIL**. Petitioners have agreed and entered into an agreement being the Scheme of

Arrangement (**Annexure “C”**) for merger and 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, attached as Annexure “C” to this petition gives full particulars as to its benefits, the purpose for the same, the consequences of the arrangement, the effective date of such transfer of shareholding, consideration and related matters, and general provisions with respect to the arrangement. It also provides that in consideration for the transfer of NIL undertaking to NHL, NHL shall issue and allot 10,551,854 ordinary shares PKR 10/- each to the Khalid family (as defined in the Scheme) in the manner and proportion as defined in the Scheme. Such Scheme of Arrangement is part and parcel of the petition. 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, whereby, if NIL undertaking is subject to any liabilities immediately prior to the effective date, NIL undertaking (or such part thereof) shall be deemed to have been transferred subject to such liabilities, whereas, after approval of the Scheme on the effective date, without any further act or deed, any and all charges or liabilities in relation to the NIL undertaking, shall be deemed to have been created by Petitioner No.2, and NIL undertaking (inclusive of all liabilities) shall be deemed to be and assumed by Petitioner No.2 as its own, and simultaneously, with the assumption by Petitioner No.2 of liabilities in relation to NIL undertaking, Petitioner No.1 shall stand released from all obligations in respect of such liabilities.

On 31.05.2019 on application (CMA No.145/2019) on behalf of the Petitioners under Section 279(1) of the Companies Act, 2017 read with Rule 55, 56 and 58 of the Companies (Court Rules), 1997, 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 Ordinance (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 "JANG" and "DAWN" both dated 26.06.2019, whereas, report has been furnished by the Chairman. Comments were filed by SECP and objection was raised that there are no registered secured creditors of the Petitioner No.2 and the registered secured creditors of the Petitioner No.1 and Petitioner No.1 has to obtain NOC from UBL, to which necessary response has been filed on behalf of the Petitioners, whereby, all objections have been complied with and Bank has given its NOC. To this SECP has given its consent as well. A proper notice has also been published in the Gazette of Pakistan dated 24.07.2019.

In view of such position, since all formalities have been completed whereas, no objections have been received from any quarter, 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