

IN THE HIGH COURT OF SINDH AT KARACHI

J.C.M. NO.11/2023

IN THE MATTER OF :

- 1. ARCHROMA PAKISTAN LIMITED**
- 2. HUNTSMAN TEXTILE EFFECTS PAKISTAN
(PRIVATE) LIMITED PETITIONERS**

Date of Hearing and order : 31.10.2023.

Petitioners: Through Mr. Mikael Azmat Rahim advocate.
SECP on Court notice: Through Syed Ehad, Law Officer, SECP.

J U D G M E N T

SALAHUDDIN PANHWAR, J: This petition under section 279 read with Sections 280 to 283 and 285(8) of Companies Act, 2017 pertains to merger of petitioner No.2 with and into petitioner No.1. The purpose of the petition is approval of the scheme of arrangement dated 27.04.2023 attached as Annexure 'C' to the petition. In substance the petitioners have proposed to restructure, in terms whereof petitioner No.2 is required to be merged / amalgamated into petitioner No.1.

2. By virtue of order dated 16.05.2023 meeting of the members and creditors of the petitioner No.1 and that of members of petitioner No.2 and persons named in the application was ordered to be held in pursuance of application filed in that regard, and so also advertisement of main petition to be published in official gazette and newspapers, as required under the scheme of Company Court Rules 1997 and Sindh Chief Court Rules (OS). Notice to SECP was also made.

3. The SECP after notice have marked their appearance and have raised some formal objections which Law Officer appearing for SECP has also agitated during the course of his arguments.

4. I have heard learned counsel for petitioners as well as law officer SECP and perused material available on record.

5. In terms of the Scheme of Arrangement entire undertaking and business including assets, rights, properties, benefits, powers privileges, contracts, liabilities, obligations and dues of petitioner No.2 will be transferred to and vested in and assumed by petitioner No.1 against the allotment and issue of shares of petitioner No.1 to the Hutsman shareholders as detailed in the scheme. Thus, in terms of Scheme of Arrangement petitioner No.1 will act accordingly whereas petitioner No.2 shall be dissolved and cease to exist without winding up in the manner contemplated.

6. The true copies of its annual audited financial statement/annual report for FY ended 30.09.2022 and special purpose financial statements for three months period ended 31.12.2022 of petitioner and true copy of annual audited financial statements for year ended 31.12.2022 of petitioner No.2 have been submitted. The consideration for said merger has been determined and approved by respective boards of directors of petitioners from range of values and calculations carried out by EY Ford Rhode in terms of its letter dated 27.04.2023 which has in turn taken into account the fair valuations of petitioners carried out by EY Ford Rhodes based on inter alia audited financial statements of the companies for period ended 31.12.2022 etc, and in accordance with the same the Huntsman shareholders shall be issued shares of the petitioner No.1 as prescribed.

7. As far as the issues raised in the parawise comments are concerned, which the Law Officer has also agitated during the course of arguments, a perusal of the record reveals that all such objections are met and even the Law Officer has conceded to it. Hence in substance he has conceded to the Scheme of Arrangement.

8. In view of the above, it appears that the petitioners completed all necessary legal formalities, including holding separate meetings of shareholders of petitioners and that of creditors of petitioner No.1, requisite publication and issuance of notices to the Securities & Exchange Commission of Pakistan. In terms of such meetings of the shareholders and secured creditors to the extent it is applicable and report pertaining to such meetings are available on record and not a single shareholder of petitioners or secured creditor

of petitioner No.1 objected to the scheme. The publication of the instant petition was effected in Daily Jang Urdu and Daily News English Karachi, in their issue of 07.06.2023. Official Gazette is awaited. Reports of the Chairmen in terms of Rule 955 of SCCR and Rule 57 of Companies (Court) Rules, 1997 are also available on Record in terms whereof meetings of the members and secured creditors of petitioner No.1 were held wherein no any objection of whatsoever nature has been raised whereas petitioner No.2 has no secured creditors.

9. In view of the above, I do not see any impediment in granting this petition, which is accordingly allowed as prayed.

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