

IN THE HIGH COURT OF DELHI
COMPANY APPLICATION (MAIN) NO. 107/2016

Reserved on 20th July, 2016
Date of pronouncement: 12th August, 2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

**Application under Sections 391 to 394 of the
Companies Act, 1956 read with Rule 9 of the
Companies (Court) Rules, 1959**

Scheme of Arrangement between:

Statcon Power Controls Limited

Applicant/Amalgamated/Transferor Company

Stat Enterprises Private Limited

Applicant/Amalgamating Company

AND

Statcon Energiaa Private Limited

Applicant/Transferee Company

**Through Mr. Aniruddha Deshmukh and Mr.
Mohit D. Ram, Advocates for the applicants**

SUDERSHAN KUMAR MISRA, J.

1. This joint application has been filed under Sections 391 to 394 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959 by the applicant companies seeking directions of this court to dispense with the requirement of convening the meetings of their equity shareholders and secured and unsecured creditors of the amalgamating company and for convening separate meetings of the secured and unsecured creditors of the transferor and transferee companies to consider and approve, with or without modification, the proposed Scheme of Arrangement between Statcon Power Controls

Limited (hereinafter referred to as the amalgamated/transferor company); Stat Enterprises Private Limited (hereinafter referred to as the amalgamating company) and Statcon Energiaa Private Limited (hereinafter referred to as the transferee company).

2. The registered offices of the amalgamated/transferor company, amalgamating company and the transferee company are situated at New Delhi, within the jurisdiction of this Court.

3. The amalgamated/transferor company was incorporated under the Companies Act, 1956 on 11th May, 1994 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

4. The amalgamating company was incorporated under the Companies Act, 1956 on 16th February, 2010 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi.

5. The transferee company was originally incorporated under the Companies Act, 1956 on 26th July, 1991 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of Triport Electronics Private Limited. The company changed its name to Statcon Energiaa Private Limited and obtained the fresh certificate of incorporation on 26th December, 2014.

6. The present authorized share capital of the amalgamated/transferor company is Rs.5,00,00,000/- divided into 50,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.3,79,96,700/- divided into 37,99,670 equity shares of Rs.10/- each.

7. The present authorized share capital of the amalgamating company is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company is Rs.20,00,000/- divided into 2,00,000 equity shares of Rs.10/- each.

8. The present authorized share capital of the transferee company is Rs.5,00,00,000/- divided into 5,00,000 equity shares of Rs.100/- each. The issued, subscribed and paid-up share capital of the company is Rs.1,82,38,700/- divided into 1,82,387 equity shares of Rs.100/- each.

9. Copies of the Memorandum and Articles of Association of the amalgamated/transferor company, amalgamating company and the transferee company have been filed on record. The audited balance sheets, as on 31st March, 2015, of the amalgamated/transferor company, amalgamating company and the transferee company, along with the report of the auditors, have also been filed.

10. A copy of the Scheme of Arrangement has been placed on record and the salient features of the Scheme have been incorporated and detailed in the application and the accompanying affidavits. It is submitted by the applicants that the two shareholders group of the transferor company viz. Mr. Manoj Pandey Group (MPG) and Mr. Manmohan Singh Saini (MSSG) entered into an Arbitration proceeding on 1st October, 2014 and a consented award was passed by the sole Arbitrator, Mr. Sunil Gupta, on 25th July, 2015, which was subsequently amended on 27th October, 2015. According to the award, the Transferred Undertaking of the amalgamated/transferor company is required to be demerged into the transferee company. It is further submitted that the proposed demerger will promote a culture of independent working, accountability, independent funding of the businesses, focused development and growth as well as effectuate the consented Arbitration Award into a binding position. The Scheme, *inter alia*, also provides for merger of the amalgamating company into the amalgamated/transferor company.

11. So far as the share exchange ratio is concerned, the Scheme provides that, upon coming into effect of this Scheme, the transferee company shall issue and allot equity shares to the shareholders of the amalgamated/transferor company in the following ratio:

“58 equity shares of Rs.100/- each of the transferee company for every 100 equity shares of Rs.10/- each held by the shareholders in the amalgamated/transferor company.”

It has been further provided that the amalgamated/transferor company shall issue and allot equity shares to the shareholders of the amalgamating company in the following ratio:

“21 equity shares of Rs.10/- each of the amalgamated/transferor company for every 100 equity shares of Rs.10/- each held by the shareholders in the amalgamating company.”

12. It has been submitted by the applicants that no proceedings under Sections 235 to 251 of the Companies Act, 1956 are pending against the applicant companies.

13. The Board of Directors of the amalgamated/transferor company, amalgamating company and the transferee company in their separate meetings held on 1st March, 2016 have unanimously approved the proposed Scheme of Arrangement. Copies of the Resolutions passed at the meetings of the Board of Directors of the amalgamated/transferor company, amalgamating company and the transferee company have also been placed on record.

14. The amalgamated/transferor company has 22 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no

objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the amalgamated/transferor company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with.

15. The amalgamating company has 02 equity shareholders. Both the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the amalgamating company to consider and, if thought fit, approve, with or without modification, the proposed Scheme of Arrangement is dispensed with. There is no secured or unsecured creditor of the amalgamating company, as on 30th March, 2016.

16. The transferee company has 03 equity shareholders. All the equity shareholders have given their consents/no objections in writing to the proposed Scheme of Arrangement. Their consents/no objections have been placed on record. They have been examined and found in order. In view thereof, the requirement of convening the meeting of the equity shareholders of the transferee company to consider and, if thought fit,

approve, with or without modification, the proposed Scheme of Arrangement is dispensed with.

17. The amalgamated/transferor company has 172 unsecured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the amalgamated/transferor company shall be held on 24th September, 2016 at 12:30 p.m. at Agarwal Fun City Mall, CBD Ground, Shahdara, Delhi-110032. Mr. Sandeep Dhingra, Advocate, (Mobile No. 9811228677) is appointed as the Chairperson and Ms. Tina Mago, Advocate, (Mobile No. 9999443522) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the amalgamated/transferor company shall be 35 in number and more than 25% in value of the total unsecured debt.

18. The amalgamated/transferor company has 02 secured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the secured creditors of the amalgamated/transferor company shall be held on 24th September, 2016 at 10:30 a.m. at Agarwal Fun City Mall, CBD Ground, Shahdara, Delhi-110032. Mr. Ankur Arora, Advocate, (Mobile No. 9811929774) is

appointed as the Chairperson and Ms. Abhiti Vachher, Advocate, (Mobile No. 9999007399) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditors of the amalgamated/transferor company shall be 2 in number.

19. The transferee company has 02 secured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the secured creditors of the transferee company shall be held on 24th September, 2016 at 11:30 a.m. at Agarwal Fun City Mall, CBD Ground, Shahdara, Delhi-110032. Mr. V. K. Diwan, Advocate, (Mobile No. 9811237371) is appointed as the Chairperson and Ms. Divya Sharma, Advocate, (Mobile No. 9911542924) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the secured creditors of the transferee company shall be 2 in number.

20. The transferee company has 138 unsecured creditors and a direction is sought to convene and hold their meeting to seek their approval to the proposed Scheme of Arrangement. Considering the facts and circumstances aforesaid, the meeting of the unsecured creditors of the transferee company shall be held on 24th September, 2016 at 2:30 p.m. at Agarwal Fun City Mall, CBD Ground, Shahdara, Delhi-110032.

Mr. Akhil Mittal, Advocate, (Mobile No. 9891180590) is appointed as the Chairperson and Mr. Jaideep Tandan, Advocate, (Mobile No. 9810070237) is appointed as the Alternate Chairperson to conduct the said meeting. The Quorum of the meeting of the unsecured creditors of the transferee company shall be 26 in number and more than 25% in value of the total unsecured debt.

21. In case the quorum as noted above for the above meetings is not present, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the person entitled to attend and vote at the meetings is filed with the registered offices of the applicant companies at least 48 hours before the meetings. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

22. The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meetings of the secured and unsecured creditor of the amalgamated/transferor company and the transferee company, along with copies of the Scheme of Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to the secured and unsecured creditor of the

amalgamated/transferor company and the transferee company by ordinary post at their registered or last known addresses at least 21 days before the date appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meetings shall also be published in the Delhi editions of the newspapers “Times of India” (English) and “Veer Arjun” (Hindi) in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

23. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the applicant companies so that the aforesaid meetings of the secured and unsecured creditor of the amalgamated/transferor company and the transferee company are conducted in a just, free and fair manner.

24. The fee of the Chairpersons and the Alternate Chairpersons for the aforesaid meetings shall be Rs.50,000/- each in addition to meeting their incidental expenses. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meetings.

25. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

August 12, 2016