

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO. 703 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 545 OF 2015
ATLAS CASTALLOY LIMITED

..... Petitioner / the Transferor Company
AND

COMPANY SCHEME PETITION NO. 704 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO. 546 OF 2015
ALICON CASTALLOY LIMITED

..... Petitioner / the Transferee Company

In the matter of the Companies Act, 1956
(or re-enactment thereof upon
effectiveness of Companies Act, 2013);

AND

In the matter of Sections 391 to 394 of the
Companies Act, 1956 (or any
corresponding provisions of the
Companies Act, 2013 as may be notified);

AND

In the matter of Scheme of Arrangement
between Atlas Castalloy Limited and
Alicon Castalloy Limited and their
respective Shareholders and Creditors

Called for Hearing

Mr. Hemant Sethi i/b M/s Hemant Sethi & Co., Advocates for the
Petitioners in both the Petitions.

Mrs. P. Awasthi, i/b Mr. A. A. Ansari for Regional Director in both the
Company Scheme Petitions.

CORAM: S.C. Gupte, J.

DATE: 23rd October, 2015

1. Heard the learned counsel for the Petitioner Companies. No objector has come before the court to oppose the Scheme and nor any party has controverted any averments made in the petition.
2. The sanction of the Court is sought under Sections 391 to 394 of the Companies Act, 1956 or any corresponding provisions of the Companies Act, 2013 to in the Scheme of Arrangement between Atlas Castalloy Limited and Aicon Castalloy Limited and their respective Shareholders and Creditors.
3. Learned Counsel for the Petitioners states that the Petitioner in Company Scheme Petition No. 703 of 2015 was incorporated to acquire as a going concern, the business of M/s. Atlas Automotive Components, a unit of Indokem Limited, and to engage in the business of manufacturing of aluminium alloy castings. It is an established aluminium foundry and mainly caters to Indian and international automotive and non-automotive customers. Petitioner in Company Scheme Petition No. 704 of 2015 is a public limited company incorporated under the provisions of the Companies Act, 1956 and is an integrated aluminum foundry involved in manufacturing of aluminum castings and has in-house research and development facility. Further, the Petitioner Company has presence in Austria and Slovakia through its wholly owned subsidiaries. It mainly caters to Indian and international automotive and non-automotive customers. Equity shares of the Petitioner Company are listed on BSE Limited and National Stock Exchange of India Limited.

4. Learned Counsel for the Petitioners states that the rationale of the Scheme of Arrangement are inter alia as follows that the restructuring of group operations and business are desirable for achieving better synergy, results and growth. Post the restructuring, it will help the Transferee Company in achieving economies of scale, optimal utilization of resources, better administration and reduction in cost. Further, it will also provide the Transferee Company with greater flexibility to pursue strategic objectives and accelerate growth of the casting business. This transfer will provide an access to the Transferee Company to a large customer base and give a boost to additional production capacity and capabilities of the Casting Business Undertaking. The Transferor Company and the Transferee Company post transfer and vesting of the Casting Business Undertaking will have better operational prospects including but not limited to efficient management of cost, resources, better maintenance of manufacturing facilities and improved administrative control of the Casting Business Undertaking. The Scheme shall be beneficial and be in the best interest of the shareholders, creditors and other stake holders of both the Transferor Company and the Transferee Company. The Scheme shall not be in any manner prejudicial to the interest of concerned members, creditors and stakeholders.
5. Learned Counsel for the Petitioners further states that the Board of Directors of the Petitioner Companies have approved the said Scheme by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. Learned Counsel for the Petitioners further states that the Petitioner Companies have complied with all directions passed in Company Summons for Directions and that the Company Scheme

Petitions have been filed in consonance with the orders passed in respective Company Summons for Directions.

7. The learned Counsel appearing on behalf of the Petitioners has stated that the Petitioner Companies have complied with all requirements as per directions of this Court and they have filed necessary affidavits of compliance in the Court. Moreover, the Petitioner Companies undertake to comply with all statutory requirements if any, as required under the Companies Act, 1956 / the Companies Act, 2013 and the Rules made there under whichever is applicable. The said undertakings are accepted.
8. The Regional Director has filed an Affidavit on 21st day of October, 2015 stating therein, that save and except as stated in paragraph 6 of the said affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public.

In paragraph 6 of the said affidavit, it is stated that:

6. That the Deponent further submits that, the Tax issue if any arising out of this scheme shall be subject to final decision of Income Tax Authority and approval of the scheme by Hon'ble High Court may not deter the Income Tax Authority to scrutinize the tax returns filed by the petitioner company after giving effect to the amalgamation. The decision of the Income Tax Authority is binding on the petitioner company.

9. In so far as observations made in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Petitioner Companies through their Counsel submits that approval of the scheme by this Court will not deter the Income Tax Authority to scrutinize the tax returns filed by the Petitioner company after giving effect to the Scheme and all tax issues arising out of the Scheme will be met and answered in accordance with law.

10. The Counsel for the Regional Director on instructions of Mr. M Chandanamuthu, Joint Director (Legal) in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the submissions given by the Petitioner Companies. The said undertakings given by the Petitioners are accepted.
11. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
12. Since all the requisite statutory compliances have been fulfilled, Company Scheme Petition No. 703 of 2015 and 704 of 2015 are made absolute in terms of prayer clauses (a) and (b) of the respective Company Scheme Petition.
13. The Petitioner Companies are directed to file a copy of this order and the Scheme, duly authenticated by the Company Registrar, High Court (O.S.), Bombay with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of issuance of Order.
14. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of Companies, electronically, along with concerned E-Form INC 28 in addition to physical copy as per the provisions of the Companies Act 1956 / 2013 whichever is applicable.
15. The Petitioner Companies in both the Company Scheme Petitions to pay costs of Rs.10,000/- each to the Regional Director, Western

Region, Mumbai. Costs to be paid within four weeks from the date of the order.

16. Filing and issuance of the drawn up order is dispensed with.
17. All concerned regulatory authorities to act on a copy of this order along with the Scheme duly authenticated by the Company Registrar, High Court (O. S.), Bombay.

(S.C. Gupta, J.)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

Uploaded by: Shankar Gawde, Stenographer