

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SUMMONS FOR DIRECTION NO 515 OF 2016

In the matter of Companies Act, 1956 (1 of 1956)

AND

In the matter of Sections 391 to 394 of the
Companies Act, 1956

AND

In the matter of Scheme of Amalgamation of Foton
Motors Marketing & Sales India Private Limited
("Transferor Company") with Borgward Automotive
India Private Limited ("Transferee Company") and
their respective shareholders

Foton Motors Marketing & Sales India Private Limited,	}
a company incorporated under the provisions	}
the Companies Act, 1956 having its registered office at	}
'Solitaire' 14/3, Kalyani Nagar, Yerwada, Pune- 411006	}....Applicant Company

Called for Admission

Mr. Hemant Sethi i/b. Hemant Sethi & Co. Advocates for the Petitioner.

Coram: B.P. Colabawalla, J

Dated: 1st July , 2016

MINUTES OF THE ORDER

UPON the application of the Applicant Company above named by a Summons for Direction AND UPON HEARING Mr. Hemant Sethi instructed by Hemant Sethi & Co., Advocates for the Applicant Company, AND UPON READING the Affidavit dated 28th Day of April, 2016 of Mr. Nitin Agarwal, Company Secretary of the

Applicant Company, in support of Summons for Direction and the exhibits therein referred to, **IT IS ORDERED THAT:**

1. The convening and holding of the meeting of the Equity Shareholders of the Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation of Foton Motors Marketing & Sales India Private Limited ("Transferor Company") with Borgward Automotive India Private Limited ("Transferee Company") and their respective shareholders is dispensed with in view of the consent given by both the Equity Shareholders of the Applicant Company, which are annexed as **Exhibits "D1 to D2"** to the Affidavit in Support of Company Summons for Direction.
2. The question of convening and holding meeting of Secured Creditors does not arise as there are no Secured Creditors of the Applicant Company as stated in paragraph 14 of the Affidavit in Support of Company Summons for Direction.
3. The convening and holding of the meeting of the Unsecured Creditors of the Applicant Company for the purpose of considering and, if thought fit, approving with or without modification(s), the proposed Scheme of Amalgamation of Foton Motors Marketing & Sales India Private Limited ("Transferor Company") with Borgward Automotive India Private Limited ("Transferee Company") and their respective shareholders is dispensed with in view of averments made in paragraph 15 of the Affidavit in support of Company Summons for Direction, inter-alia stating that the present Scheme of Amalgamation is an arrangement between the Applicant Company and its shareholders as contemplated under Section 391(1)(b) and not in accordance with the provisions of Section 391(1)(a) of the Companies Act, 1956 as there is no compromise and/or arrangement with the creditors as no sacrifice is called for and in terms of the proposed Scheme, the Transferee Company will take over all the assets and liabilities of the Applicant Company and that the Applicant Company undertakes to issue individual notices to all its Unsecured Creditors by RPAD and also publish notices in 'Indian Express' in English Language and translation thereof in

'Loksatta' in Marathi Language both having circulation in Pune. The said undertaking is accepted.

(B.P. COLABAWALLA, J)

CERTIFICATE

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

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