Ref No. 6.12-KSE/S/FFC
December 04, 2024

To: **The General Manager**
Pakistan Stock Exchange Limited
Stock Exchange Building,
Stock Exchange Road
Karachi
("**PSX**")

Subject: **Disclosure of Material Information**

Dear Sir,

Under Sections 96 and 131 of the Securities Act, 2015 (the "Act") and Clause 5.6.1(a) of the Rule Book of Pakistan Stock Exchange Limited ("PSX"), we are pleased to convey the following information:

We are pleased to announce that vide Judgment issued on December 4, 2024, passed in Civil Original No. 04 of 2024, the Honourable Lahore High Court, Rawalpindi Bench has allowed the said petition and, *inter alia*, sanctioned the Scheme of Arrangement dated September 26, 2024 for the merger, by way of amalgamation, of Fauji Fertilizer Bin Qasim Limited ("FFBL") with and into Fauji Fertilizer Company Limited ("FFCL") (along with ancillary matters thereto).

A copy of the said Judgment, which has been uploaded on the website of the Lahore High Court is attached herewith.

In accordance with the Scheme of Arrangement, and in consideration of the arrangement thereunder, FFCL shall allot and issue an aggregate of 150,870,449 ordinary shares to the FFBL Shareholders (i.e. being the shareholders of FFBL other than FFCL including its nominees, if any), credited / issued as fully paid up, at par, on the basis of a swap ratio of 1 (one) FFCL Share for every 4.29 ordinary shares of FFBL, of the face value of PKR 10/-, held by each FFBL Shareholder as on the record date (subject to adjustment of fractional shares).

FAUJI FERTILIZER COMPANY LIMITED
SONA TOWER, 156 THE MALL, RAWALPINDI-PAKISTAN P.O.BOX 253
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The record date, to determine the identities and entitlements of the FFBL Shareholders will be fixed by the directors of FFBL in due course, subsequent to which details will be provided to FFCL, in each case, in accordance with the provisions of the Scheme. We will keep the shareholders informed of all significant developments as the matter progresses further.

You may kindly inform members of the PSX and TRE certificate holders accordingly.

Yours faithfully,

Brig Zulfiqar Ali Haider (Retd)
Company Secretary

cc: Director / HOD
Listed Companies Department, Supervision Division
Securities & Exchange Commission of Pakistan,
NIC Building, 63 Jinnah Avenue
Blue Area, Islamabad

The Central Depository Company Limited

The Share Registrar FFC

Stereo HCJ DA 38

JUDGMENT SHEET
IN THE LAHORE HIGH COURT, RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Civil Original No.04 of 2024

Fauji Fertilizer Company Limited and Fauji Fertilizer Bin Qasim Limited **V/S** *Security and Exchange Commission of Pakistan and another*

J U D G M E N T

Date of hearing	**18.11.2024**
Petitioner(s) by	M/s Barrister Raja Jibran Tariq, Asim Shafi, ASC with Mikael Azmat Rahim, ASC and Furqan Khan, Advocate.
Respondent(s) by	Mr. Shahzad Ali Rana, Special Public Prosecutor on behalf of the SECP with Fatima Shabbir and Hassnain Raza, Advocates. Mr. Gulfraz Arshad, Law Officer on behalf of the CCP. Mr. Muhammad Ahmad, Advocate for United Bank Limited. Mr. Shah Jahan, Law Officer for Meezan Bank Limited. Mr. Rahil Sikandar Khawaja, Advocate for Faysal Bank Limited with Raja Faisal Ghanni, Advocate. Raja Arshad Mahmood, Advocate for Bank of Punjab with Sardar Haseeb Arshad, Abdul Waheed and Muhammad Nasrullah Rehman, Advocates. Mr. Muhammad Asif, Law Officer on behalf of Askari Bank Limited. Mr. Muhammad Tauseef Akhlaq, Law Officer for Bank Al-Habib Limited with Abid Jan, Bank Representative. Mr. Shahzada Moteen Hasan, Manager Legal Affairs on behalf of MCB Bank Limited with Nouman Israr, Bank Representative. Mr. Faheem Farooq, Manager/Representative on behalf of Soneri Bank Limited.

JAWAD HASSAN, J. The Court by invoking Section 6(11) of the Companies Act, 2017 (the ***"Act"***) is going to decide this

petition within five (05) weeks; less than the time of 120 days provided under the law in terms of judgment cited in *FAUJI CEMENT COMPANY AND ASKARI CEMENT COMPANY versus SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN and others* **(2022 CLD 604)** to give confidence to public and shareholders about the decision by the Board of Directors. This Court also through this merger petition will develop certain legal points in order to promote the companies being merged within time for the business purpose.

2. This petition under Sections 279 to 283 read with Section 285 of the *"Act"* has been filed by authorized representative of the Petitioners for seeking/obtaining sanction of this Court to a Scheme of Arrangement and for merger between Fauji Fertilizer Company Limited (*"Transferee Company"*)/Petitioner No.1 and Fauji Fertilizer Bin Qasim Limited (*"Transferor Company"*)/Petitioner No.2 by seeking approval from Securities and Exchange Commission of Pakistan (the ***"SECP"***) and Competition Commission of Pakistan (the ***"CCP"***) which is mandatory requirement under the respective laws.

3. Briefly stated, the *"Transferee Company"*/Petitioner No.1 is a subsidiary of the Fauji Foundation which carries on business of manufacturing, producing, buying, selling, importing, exporting of chemical and fertilizers of all kinds alongwith investment in other fertilizers, chemical, cement, energy generation, food processing and banking operations. The *"Transferee Company"* is a public limited company with an authorized share capital of Rs.15,000,000,000/- divided into 1,500,000,000/- ordinary shares of Rs.10/- each which are fully subscribed and paid up. Similarly, the *"Transferor Company"*/Petitioner No.2 is manufacturing, purchasing and marketing of fertilizers. The *"Transferor Company"* is a public limited company with an authorized share capital of Rs.15,000,000,000/- divided into 1,500,000,000 ordinary shares of Rs.10/- each, out of which 1,291,252,857 ordinary shares have been issued and fully paid up.

A. THE SCHEME OF ARRANGEMENT

4. The short and precise facts are that alongwith this petition, the Petitioners have attached the Scheme of Arrangement (the "***Scheme***")

in terms of Section 279 to 283 of the *"Act"* between them and their respective shareholders**.** The principal object of the *"Scheme"* is to amalgamate the entire undertaking of the *"Transferor Company"* to the *"Transferee Company"* by transferring to, merging with and vesting in *"Transferee Company"* the whole of the *"Transferor Company"*, including all assets, liabilities and obligations of the *"Transferor Company"* against the allotment and issue of the *"Transferee Company"* shares to the *"Transferor Company"* based on the swap ratio and dissolving the *"Transferor Company"* without winding up in accordance with the provisions of the *"Scheme"*.

B. PETITIONERS' SUBMISSIONS

5. Learned counsel for the Petitioners Barrister Raja Jibran Tariq argued that before filing of this petition, all basic requirements mentioned in the *"Act"* and the Companies (Court) Rules, 1997 (the ***"Rules"***) have been fulfilled and that too the Petitioners have obtained NOCs from all the secured creditors and obtained premerger notification under Section 11 of the *"Act"* from the *"CCP"*. Barrister Raja Jibran Tariq and Mikael Azmat Rahim also stated that the Court has developed sound principles on merger.

C. REPORT OF THE SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

6. The Registrar of Companies, Companies Registration Office, Islamabad in response to the main petition filed report and parawaise comments on behalf of the *"SECP"* wherein observation with regard to non-submission of NOCs by the Petitioners their secured creditors have been raised as being still awaited. However, it has been requested that the Petitioners may be directed to solicit no objection certificates (NOC) from their secured creditors to be submitted before the Court for its satisfaction.

D. REPORT OF THE COMPETITION COMMISSION OF PAKISTAN

7. Report on behalf of the *"CCP"* was submitted on 13.11.2024 wherein it was stated that the *"Transferee Company"* approached the *"CCP"* on 29.08.2024 and submitted a pre-merger application and it was intimated by the *"CCP"* that the intended transaction is exempt

from filing pre-merger application in terms of Regulation 5(1)(i) and (ii) of the Competition (Merger Control) Regulations, 2016 (the ***"Regulations"***).

E. CREDITORS' STANCE

8. Mr. Mikael Azmat Rahim, Advocate argued that the merger petition was drafted as per requirement of the law and it also covered the issuance of NOCs from all the creditors as required under the commercial law i.e. the Securities and Exchange Commission of Pakistan Act, 1997 and the State Bank of Pakistan Act, 1956. He submitted that the issue of the NOC from the creditors has been carefully dealt with by the Petitioners as per the Scheme of Arrangement and also the reports of the Chairmen have been obtained in this regard. He refers to page No.1125 (Annexure-K18, Volume-IV) which shows the list of secure creditors of the Petitioner No.1 alongwith their NOCs, while list of secure creditors of the Petitioner No.2 is available at page No.1143 (Annexure-L, Volume-IV) alongwith their NOCs. He states that since this issue has already been acknowledged by the creditors in writing, there is no need to hold meetings of the creditors. Learned counsels, who are present in the Court today on behalf of different Banks, also submit that they have no objection if this merger petition is allowed.

F. PROCEEDINGS BEFORE THE CHAIRMEN

9. Pursuant to the direction issued by this Court vide order dated 08.10.2024, notices were issued to all the creditors within the parameters of the Article of Association of the Company and the company law. A meeting of the members/ shareholders of the Petitioners was convened on 14.11.2024 by complying with the requirements of Section 134(3) of the Act and other legal/codal requirements and notice of the said meeting, alongwith the Ballot Paper for voting through post and proxy form, were also published by way of public notices in the recognized newspapers. Queries were invited from the members, who also entered into discussion with, and raised questions to the Petitioner No.1's management and ultimately, after a detailed deliberation, being fully addressed and satisfied, a resolution was passed (through postal ballot, e-voting and voting at

the meeting as per applicable laws) by the majority as per provisions of Section 279(2) of the *"Act"*. The members of the Petitioner No.1 voting in favour of said resolution, therefore, represented approximately 99.9928% in value of the shares held by the members, present in person or by proxy and voting at the meeting, as well as voting through e-voting and ballot paper by post/e-mail and during the meeting no members verbally raised any objections to the Scheme of Arrangement.

G. PROCEEDINGS OF THE COURT

10. Albeit no time frame is provided for merger in the company laws but this Court has held on different occasions that every authority or forum is bound by time specific legislation and has the mandate to decide the matter pending before it in a timely fashion, specifically the matters arising out of commercial issues. This Court first time in a commercial case reported as *M.C.R. (PVT) LTD, FRANCHISEE OF PIZZA HUT versus MULTAN DEVELOPMENT AUTHORITY and others* **(2021 CLD 639)** held that it is the role of the Court to protect the foreign investors, which was subsequently further elaborated in the case of *WAQAS AYUB versus ADEEL YAQUB etc.* **(2024 CLD 990)** by holding that it is the duty of the Courts to promote the concept of Alternate Dispute Resolution (the ***"ADR"***) by way of developing the confidence of the parties to adopt the *"ADR"* without lengthy litigation before the Courts, which practice would definitely strengthen the ecosystem of the *"ADR"* to promote foreign investment in Pakistan. The Courts and the *"ADR"* have symbiotic relationship with critical interdependence as the Supreme Court of Pakistan in various judgments has emphasized upon strengthening of the *"ADR"*, arbitration and mediation and has settled the principles that there should be minimal interference by the Courts in such process to make way for speedy, amicable, efficacious and expeditious resolution of arbitrable disputes. The Supreme Court of Pakistan has also given view in this regard in the case of *TAISEI CORPORATION and another versus A.M. CONSTRUCTION COMPANY (PVT.) LTD. and another* **(2024 SCMR 640)** by holding that *"Arbitration thus embodies the principles of autonomy and*

voluntariness, respecting the parties' freedom to design a process that best suits their needs. It reflects a philosophical shift towards self-governance in dispute resolution, allowing parties to choose their arbitrators and the applicable law, thereby creating a more tailored and potentially equitable outcome. The role of courts in the context of arbitration has therefore evolved with a trend towards minimal interference. More significant is the minimal interference in international commercial arbitration that stands as a cornerstone in the resolution of cross-border commercial disputes, offering a preferred alternative to litigation in national courts for businesses worldwide. One of the foundational aspects of international commercial arbitration is its emphasis on neutrality, expeditiousness, efficiency and the ability to provide solutions tailored to the needs of international business transactions. International commercial arbitration plays a crucial role in resolving disputes arising from cross-border trade and commerce, expeditiously and efficiently. The global view on international commercial arbitration is therefore overwhelmingly positive, with businesses and legal professionals alike recognizing its benefits over traditional litigation". Moreover, this Court has also elaborated the provisions of the company law by making it clear that according of Section 6(11) of the Companies Act, 2017 every petition presented to a Company Judge is to be decided within **one hundred and twenty days** from the date of its presentation and under the provisions of Sub-Section (7) of this section, the Company Judge can fix a date and allocate time for hearing of the case in light of the judgment reported as *Lt. General (Retd.) Mahmud Ahmad Akhtar and another versus M/s Allied Developers (Private) Limited and others* **(2022 CLD 718)**. For reference Section 6(11) of the Act is reproduced hereunder:

> *"6. Procedure of the Court and appeal.—(1)---*
> *----------*
> *(2) ----------*
> *(3) ----------*
> *(4) ----------*
> *(5) ----------*
> *(6) ----------*
> *(7) ----------*

> *(8)* ----------
> *(9)* ----------
> *(10)* ----------
> *(11) The petition presented before the Court shall be decided within a period of one hundred and twenty days from the date of presentation of the case and for this purpose the Court may, if it is in the interest of justice, conduct the proceedings on a day to day basis and if the Court deems fit it may impose costs which may extend to one hundred thousand rupees per day or such higher amount as the Court may determine against any party to the proceeding causing the delay."*

The above-mentioned provision of law clearly demonstrates that a company petition whether merger petition or any other petition filed before the Company Judge has to be decided within 120 days from the date of its presentation before the Company Judge. Therefore, in the interest of justice, day to day proceedings should be conducted in all company matters. If Section 6(11) is read with the "Preamble" of the Act, it would clear that the Act has been introduced by the legislature with intent to protect the interests of shareholders, creditors, stakeholders and general public by inculcating the principles of good governance and safeguarding minority interests in corporate entities and providing an alternate mechanism for expeditious resolution of corporate disputes as well as the matters connected thereto. Previously, in the (repealed) Companies Ordinance, 1984 no time frame was given for adjudication of company matters.

11. For the foregoing reasons, to improve the corporate sector and protect the interest of shareholders, creditors as well as general public with the principles of good governance, this Court decides this merger petition today within five (05) weeks on the second date of hearing keeping in view the provisions contained in Section 6 of the Act coupled with the fact that the foundation of rule of law is the access to justice and the dispensation of justice in a timely fashion as is the mandate of Article 37(d) of the Constitution, which provides in unequivocal terms that all the governmental authorities are liable to provide inexpensive and **expeditious justice** to the people of this

country. The scope of this Article has been further discussed and elaborated by this Court in the case of *Shaheen Merchant versus Federation of Pakistan/National Tariff Commission and others* **(2021 PTD 2126)** by holding as under:

> "*...considering the nature and signification of a particular subject-matter which requires swift and speedy resolution of disputes by the judicial forums, the legislature has always incorporated a time-bound mechanism not only for preferring a dispute or appeal to the judicial forum or Appellate Tribunal, as the case may be, but also specifically prescribe and lays down a definite time limit to give decision thereon to meet the ends of expeditious justice, which is a command of Constitution under Article 37(d) wherein the State is duty bound to ensure inexpensive and expeditious justice to the citizens.*"

12. This Court vide order dated 08.10.2024 issued notices in national newspapers namely *"The Dawn"* and *"Nawa-i-Waqt"* for the purpose of informing general public about the *"Scheme"* proposing merger of the Petitioners and inviting objections to the *"Scheme"* from members and creditors of the *"Petitioners"* as well as from any person having interest in the affairs of the Petitioners. In addition, notices were also directed to be issued to the "*SECP"*, the "*CCP"* and to the creditors of the Petitioners' companies as per list of creditors attached with the petition. The Chairman of the *"SECP"* immediately sent notice to hold meeting for 14.10.2024 as per statutory requirement given under the law and subsequently, the said meeting was held, hence, today, this Court allows the merger based on the principle already settled in the case of *FAUJI CEMENT COMPANY AND ASKARI CEMENT COMPANY versus SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN and others* **(2022 CLD 604)**. On an application (i.e. C.M.No.02/2024) filed alongwith the merger petition, the Court appointed Chairmen to convene meetings amongst the members/shareholders of the Petitioner No.1 and the Petitioner No.2, besides publication of proclamation in

the newspaper "Nawa-i-Waqt" and issuing notices to the *"SECP"* and the *"CCP"*. Pursuant to the notice issued by this Court, both the *"CCP"* and the *"SECP"* have submitted their respective report/para-wise comments by making certain submissions therein. Separate reports have also been filed by the Chairmen on behalf of the Petitioner No.1 and the Petitioner No.2.

13. The merger contemplated under the *"Scheme"* would have significant benefits for the Petitioners' companies and their respective stakeholders, which are stipulated in the "Scheme". Pursuant to report dated 11.11.2024 submitted by the Chairman alongwith the resolutions passed in the meetings under Section 279(2) of the *"Act"*, the nucleus of the resolution is reproduced as under:-

> *"RESOLVED THAT the Scheme of Arrangements dated September 26, 2024, for, inter alia, the merger, by way of amalgamation, of the entire undertaking of Fauji Fertilizer Bin Qasim Limited with and into Fauji Fertilizer Company Limited, along with all ancillary and incidental matters thereto, placed before the meeting for consideration and approval, be and is hereby approved and adopted, along with any modifications/amendments required, or conditions imposed by Honourable Lahore High Court, Rawalpindi Bench, subject to sanction by the Honourable Lahore High Court, Rawalpindi Bench, in terms of the provisions of the Companies Act, 2017".*

14. In pursuance of the order of this Court dated 08.10.2024, the meeting of members of the Petitioner No.1 and the Petitioner No.2 was convened on 04.11.2024 and so also of the secured creditors of the Petitioners and not a single shareholder or secured creditor of any of the Petitioner objected to the "Scheme". The copies of the dispatched notices and names of the shareholders as well as the notices published in the newspapers are mentioned in and attached to the Chairpersons' report. The attendance sheet of shareholders of the Petitioners have also been placed on record which shows the participation and voting of 100% shareholders of the Petitioners.

15. So far as the observation of SECP with regard to soliciting NOCs from the secured creditors is concerned, it is observed that this observation stands cured as all the secured creditors of the *"Transferee Company"* have given their NOCs to the mentioned Scheme which are available at Page Nos.1126 to 1143 (Annex-K1 to K-17, Volume-IV) while secured creditors of the *"Transferor Company"* submitted their NOCs which are available at Page Nos.1144 to 1165 (Annex-L1 to L21). Furthermore, learned counsels, who are present in the Court today on behalf of the Banks, also submitted that they have no objection if this merger petition is allowed. It has been held in *"DEWAN SALMAN FIBER Versus DHAN FIBERS LIMITED"* **(PLD 2001 Lahore 230)** that *where required majority of the members of both of the company has approved the resolution of merger of both the companies the sanction for merger could not be withheld unless it was shown that same was unfair, unreasonable or against the national interest.* It was further observed that *the shareholders were best judges of their interest and were better informed with the market trends than the Court, which was least equipped in evaluating such trends*.

H. SANCTION OF THE SCHEME

16. In the present case, all the shareholders of the Petitioners have unanimously approved the scheme of merger. Since the scheme of merger has been approved unanimously, there is no reason to interfere with their business decision. Reliance is placed in the matter of International Complex Projects Limited and another (**2017 CLD 1468**) wherein the Court has held that *where a scheme of arrangement was found to be reasonable and fair, at such juncture, it was not duty or province of the Court to supplement or substitute its judgment against collective wisdom and intellect of all shareholders of the company involved.*

17. The Court cannot, therefore, undertake the exercise of scrutinizing the Scheme placed for its sanction with a view to finding out whether a better scheme could have been adopted by the parties. So far as the exchange ratio of equity shareholders and the transferee-company is concerned, the Court held that the valuation of shares is a

technical and complex problem which can be appropriately left to the consideration of experts in the field of accountancy. Reliance is placed in the matter of *Gadoon Textile Mills and others* **(2015 CLD 2010)**, where the Court has held that *"businessmen had to take decision considering all the pros and cons of demerger and merger of companies. While taking such decision there would be chances of success and failure but while questioning such decision the bona fides was the real test. Businessmen could take decision foreseeing the future aspect. The Court could only see that all the legal formalities had been fulfilled and scheme was neither unjust nor unfair or against the national interest but could not challenge the wisdom of a decision of businessmen"*.

18. Being a sanctioning Court, the Court has noticed that all indispensable statutory benchmarks, requirements and formalities have been accomplished and adhered to by the Petitioners as envisioned under the relevant provisions of the law, including the holding/convening of the requisite meetings as contemplated under the relevant provisions, and the resolutions passed by the members have already been highlighted. The scheme set up for sanction has been reinforced and fortified by the requisite majority which decision seems to be just and fair. The report/minutes of meetings unequivocally convey that all essential and fundamental characteristics and attributes of the Scheme were placed before the voters at the concerned meetings to live up to statutory obligations. The proposed scheme is not found to be violative of any provision of law and/or contrary to public policy but as a whole looks like evenhanded and serviceable from the point of view of a prudent man of business taking a commercial decision beneficial to the class represented by him for whom the Scheme is meant. As explained in the above case precedents, once the requirements of a scheme for getting sanction of the Court are found to have been met, the Court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval of the Scheme. There does not remain any objection to the scheme of arrangement and no mistake,

conspicuous, detectable shortcoming or flaw has further been pointed out in the present matter before me. This Court has already allowed various mergers recently on the basis of consideration mentioned above, in *"ROOMI FOODS PVT LTD Versus JOINT REGISTRAR OF COMPANIES"* **(2020 CLD 900),** *"MS FAZAL CLOTH MILLS Ltd Versus MS FAZAL WEAVING MILLS Ltd"* **(2021 CLD 182),** *"PRESSON DESCON INTERNATIONAL PVT LIMITED etc. Versus JOINT REGISTRAR OF COMPANIES"* **(2020 CLD 1128 = PLD 2020 Lahore 869) and** *"DILSONs (Private) Limited and others Versus Security & Exchange Commission of Pakistan and another"* **(2021 CLD 1317 Lahore)** *by holding that* where a scheme of arrangement is found to be reasonable and fair, it is not duty or province of the Court to supplement or substitute its judgment against collective wisdom and intellect of all shareholders of the company involved. Reliance is also placed in the matter of *NADEEM POWER GENERATION (PVT.) LTD. and another* **(2023 CLD 652)** whereby the Court held that *"it appears that the petitioners completed all necessary legal formalities, including holding separate meetings of shareholders and board of directors, requisite publication and issuance of notices to the Securities and Exchange Commission of Pakistan. In terms of such meetings of the board of directors and shareholders to the extent it is applicable and report pertaining to such meetings are available on record and not a single shareholder of any of the two petitioners objected to the scheme. Copy of letter of Pakistan Stock Exchange to such merger and that of swap ratio calculation issued by the Chartered Accountants are available on record. The publication of the instant petition was effected in Daily 'Dunya and 'Business Recorder' of Lahore, Karachi and Islamabad in their issue of 03.01.2022 and was also gazetted. It is settled principle of law that the approach is channelized to ascertain (i) whether the statutory requirements were complied with and (ii) to determine whether the scheme as a whole has been arrived at by the majority, bona fide and the interest of whole body of shareholders in whose interest the majority purported to act and (iii) whether scheme is such that fair and reasonable shareholder will consider it to be for the*

benefit of the company for himself. In the instant case no objection of whatsoever from any quarter has come forward while all the requisite formalities have been fulfilled hence no exception could be taken". Moreover, in the matter of *CHANCELLOR MASTERS AND SCHOLARS OF THE UNIVERSITY OF OXFORD AND OXFORD UNIVERSITY PRESS PAKISTAN (SMC-PRIVATE) LIMITED* **(2023 CLD 1111)**, the Court held that *"the "reasons" for this transfer and benefits have never been considered for a judicial review as it is their wisdom, which cannot be challenged. Only thing which is important for the court to see is whether this merger is lawful and has undergone the requirement of law. The Scheme of Arrangement under consideration as such stands approved as has been done by the petitioners and the creditors, which seems to be fair and reasonable and is not found against public or any individual's interest. All financial and other related information including last audited accounts and unaudited accounts of the petitioners have been disclosed and no investigation proceedings claimed to have been pending before any forum including SECP".* Likewise, in the matter of *SPI INSURANCE COMPANY LIMITED AND THE UNITED INSURANCE COMPANY OF PAKISTAN LIMITED* **(2023 CLD 1088)**, the Court held that *"it is settled principle of law that the approach is channelized to ascertain (i) whether the statutory requirements were complied with and (ii) to determine whether the scheme as a whole has been arrived at by the majority, bona fide and the interest of whole body of shareholders in whose interest the majority purported to act and (iii) consider it to be for the benefit of the company for himself. In the instant case no objection of whatsoever from any quarter has come forward while all the requisite formalities have been fulfilled hence no exception could be taken. To understand the concept of question, it is rather to be seen from the perception that a wise group of businessmen has taken a decision considering all its pros and corns. While taking such decision there are chances of success and failure but then while questioning such decision the bona fide is the real litmus test. A businessman takes decision foreseeing the future aspect. The Court could only see that*

*all legal formalities have been fulfilled and that the scheme is neither unjust nor unfair or against the national interest but cannot challenge the wisdom of a decision of businessman as by doing that the Court would be overriding the wisdom of a businessman and their prerogative. Even otherwise the report of Chartered Accountants is also very material who were engaged for calculating the swap ratio in respect of envisaged scheme of Merger"***.**

19. By examining Sections 279 to 283 of the *"Act"*, it has established like mid-day-sun that all legal/statutory requirements qua holding of meetings by the Chairmen, requisite publication, issuance of notices to the *"SECP"* and *"CCP"*, filing of NOCs of all secured creditors, interest of whole body of shareholders and approval of the "Scheme" by majority of shareholders which ultimately will prove to be beneficial for the shareholders and the companies itself, and the dictums laid down in aforesaid judgments, there remains no impediment to grant sanction of the Scheme of Arrangement of the Petitioners. Accordingly, this petition is ***allowed*** and the Scheme attached at **Annex-G** is hereby sanctioned and approved in terms thereof.

(JAWAD HASSAN)
JUDGE

APPROVED FOR REPORTING

JUDGE

*Usman**