

THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I)

COMPANY APPLICATION NO.CA(CAA) No.59/Chd/Hry/2023

In the matter of Scheme of Amalgamation by and between:

1. Hitachi Astemo Chennai Private Limited,

Plot No.663, Phase-5, Udyog Vihar, Industrial Complex Dundahera,
Gurgaon, Haryana-122016

CIN: U29253HR2012FTC114098

....Transferor Company No 1 /Applicant Company No 1

AND

2. Hitachi Astemo Rajasthan Brake System Private Limited,

Plot No.663, Phase-5, Udyog Vihar, Industrial Complex Dundahera,
Gurgaon, Haryana-122016

CIN: U50500HR2006PTC114697

....Transferor Company No 2/Applicant Company No 2

AND

3. Hitachi Astemo Haryana Private Limited,

23-32, Sector-58, Faridabad,
Haryana-121002

CIN: U34300HR2006PTC038027

....Transferor Company No 3/Applicant Company No 3

AND

4. Hitachi Astemo India Private Limited

Plot No. 663, Phase-5, Udyog Vihar,
Industrial Complex Dundahera, Gurgaon,
Haryana-122016.

CIN: U34200HR2011PTC113280

....Transferor Company No 4/Applicant Company No 4

AND

5. Hitachi Astemo Gurugram Power Train System Private Limited

Plot No.663, Phase-5, Udyog Vihar
Gurgram, Haryana-122016
CIN: U34300HR1997PTC05I757

...Transferee Company/ Applicant Company No 5

AND

Their Respective Shareholders and Creditors

Order delivered on: 09.02.2024

Section: 230 to 232 of the Companies Act 2013

Coram: **HON'BLE Sh. HARNAM SINGH THAKUR, MEMBER(JUDICIAL)**
HON'BLE Sh. L. N. GUPTA, MEMBER (TECHNICAL)

Present:

For the Applicant Companies: Mr. Abhishek Nahta PCA,
Ms. Shruti Priya Sharma, Advocate
Mr Rishabh Sachdeva, Advocate
Ms Avinash Kaur, Advocate

ORDER

Per : Sh. L.N. GUPTA, M (T) & Sh. HARNAM SINGH THAKUR, M (J)

Under consideration is the Application No. CA(CAA)/59/Chd/Hry/2023 filed under Section 230 to 232 of the Companies Act 2013 in the matter of Scheme of Arrangement between Hitachi Astemo Chennai Private Limited (Transferor Company No.1), Hitachi Astemo Rajasthan Brake Systems Private Limited (Transferor Company No.2), Hitachi Astemo Haryana Private Limited (Transferor Company No.3), Hitachi Astemo India Private Limited (Transferor Company No.4) and Hitachi Astemo Gurugram Powertrain Systems Private Limited (Transferee Company). The prayers

made in the application is to dispense with the meetings of Shareholders and Creditors in relation to Transferor Companies and Transferee Company for approval of the ‘Scheme of Amalgamation’, which is proposed to take effect from the Appointed Date of 01.04.2023.

2. The brief details of the Companies involved in the Amalgamation are provided in the paragraphs below.

2.1. Hitachi Astemo Chennai Private Limited (**hereinafter referred to as the “Applicant Company No.1/Transferor Company No.1)** having CIN:U29253HR2012FTC114098 is a private limited company incorporated under the provisions of the Companies Act, 1956 on 26th April 2012. The registered office of the Transferor Company No. 1 is situated at Plot No 663, Phase 5, Udyog Vihar, Industrial Complex Dundahera, Gurugram, Haryana-122016. The Authorised Share Capital of the Company is Rs. 650,00,00,000/- and the Paid-Up Share Capital of the company is Rs. 450,95,00,000/-.

2.2. Hitachi Astemo Rajasthan Brake Systems Private Limited (**hereinafter referred to as the “Applicant Company No.2/Transferor Company No.2)** having CIN: U50500HR2006PTC114697 is a private limited company incorporated under the provisions of Companies Act, 1956 on 13th September 2006. The registered office of the Transferor Company No. 2 is situated at Plot No 663, Phase 5, Udyog Vihar, Industrial Complex Dundahera, Gurugram, Haryana-122016. The Authorised Share

Capital of the Company is Rs. 190,00,00,000/- and the Paid-Up Share Capital of the company is Rs. 187,92,59,750/-.

2.3. Hitachi Astemo Haryana Private Limited (**hereinafter referred to as the “Applicant Company No.3/Transferor Company No.3)** having CIN: U34300HR2006PTC038027 is a private limited company incorporated under the provisions of Companies Act, 1956 on 08th February 2006. The registered office of the Transferor Company No. 3 is situated at 23-32, Sector-58, Faridabad, Haryana-121002. The Authorised Share Capital of the Company is Rs. 600,00,00,000/- and the Paid-Up Share Capital of the company is Rs. 494,08,02,710/-.

2.4. Hitachi Astemo India Private Limited (**hereinafter referred to as the “Applicant Company No.4/Transferor Company No.4)** having CIN: U34200HR2011PTC113280 is a private limited company incorporated under the provisions of Companies Act, 1956 on 05th July 2011. The registered office of the Transferor Company No.4 is situated at Plot No. 663, Phase-5, Udyog Vihar, Industrial Complex Dundahera, Gurugram, Haryana-122016. The Authorised Share Capital of the Company is Rs. 400,00,00,000/- and the Paid-Up Share Capital of the company is Rs. 364,20,00,000/-.

2.5. Hitachi Astemo Gurugram Powertrain Systems Private Limited (**hereinafter referred to as the “Applicant Company No.5/Transferee Company)** having CIN: U34300HR1997PTC051757, is a private limited company incorporated under the provisions of Companies Act, 1956 on 30th

April 1997. The registered office of the Transferee Company is situated at Plot No. 663, Phase-5, Udyog Vihar, Gurugram, Haryana-122016. The Authorized Share Capital of the Company is Rs. 570,00,00,000/- and the Paid-Up Share Capital of the company is Rs. 567,67,76,880/-.

3. The present Company Application has been jointly filed by both the Transferor Companies and Transferee Company. Therefore, the 'Transferor' Companies and 'Transferee Company' together are called '**Applicant Companies**' hereinafter. The Registered offices of the Applicant Companies are in Haryana and therefore, the jurisdiction lies with this Bench.

4. It has been submitted that the Board of Directors of the Transferor Company No. 1 had approved the proposed 'Scheme of Amalgamation' on 22nd September 2023, and the rest of the applicant companies, i.e., Transferor Company No. 2, Transferor Company No.3, Transferor Company No.4 and the Transferee Company approved the Scheme on 18th September 2023,

5. It is stated by the Applicant Companies that the aforesaid Scheme of Arrangement will result in the following advantages:

- a. Diversified product portfolio – The proposed Amalgamation would enable the consolidation of product offerings of the Transferor & Transferee Companies. This would have a positive impact on the market share of the Transferee Company as it would be better placed

to acquire additional market share keeping in view of its wider range of product offerings by leveraging existing customer relationships of Transferor and Transferee Companies.

b. Operational efficiencies and economies of scale - the proposed Amalgamation will result in economies of scale & optimum utilization of idle plant/warehouse capacity. It will also allow consolidation of several functions such as procurement, distribution network, etc, leading to cost and business efficiencies & synergies arising from a better negotiation power and capacity of the combined Transferee Company.

c. Pooling of financial resources - Upon Amalgamation, the combined Transferee Company would have improved financial health and efficient utilization of cash flows and funds. The cash surplus from one business vertical could be deployed to other businesses with operating losses to reduce dependence on external borrowings. The consolidated entity will have an enhanced borrowing capacity backed by the strength of the improved cash flows. In summary, it would help in better utilization of idle funds and a more robust treasury function.

d. Optimum utilization of Manpower - The proposed Amalgamation would result in optimum utilization of the manpower of the Transferor and Transferee Companies owing to the integration of functional departments (such as IT, HR, Finance, Legal, etc.) minimum duplication of resources as well as re-deployment of the excess

capacity of employees leading to a reduction in overall cost of overheads and more productive utilization thereof.

e. Simplification of the group structure - the Proposed Scheme will result in simplification of the Indian Group structure by elimination of multiple entities engaged in similar businesses leading to a significant reduction in legal/regulatory compliances and associated costs.

6. The Applicant companies have filed their respective Affidavits in compliance of Section 230(2)(a) of the Companies Act, 2013, submitting therein that there are no pending investigations under any law in force at the time. The Applicant companies have also submitted that there are certain proceedings pending against the Applicant Companies which are in the ordinary course of business.

7. That the Applicant Company No. 5 have also placed on record an Affidavit dated 22.12.2023 stating that all pending Income Tax/GST/Assessment Proceedings against the Applicant Company No.1, Applicant Company No.2, Applicant Company No.3 and Applicant Company No.4 shall be duly borne by the Applicant/ Transferee Company No.5.

8. The Applicant Companies have also placed on record the Certificates from the Statutory Auditors confirming that their Accounting

Standards are in conformity with the provision of Section 133 of the Companies Act, 2013.

9. The Applicant Companies have filed their respective Memorandum of Association (MoAs) and Articles of Association (AoAs). The Applicant Companies have filed their latest Audited Balance Sheets as of 31.03.2023 on record.

10. The position regarding the Applicant Companies-wise no. of Shareholders and Creditors and their consent through Affidavits is summarized below:

Applicant Company	No. of Shareholder(s)	Percentage of Shareholders who gave Consent	No. of Secured Creditors	Percentage of Secured Creditors who gave Consent (in value)	No. of Unsecured Creditors	No. and %age of unsecured Creditors given Consent (in value)
Hitachi Astemo Chennai Private Limited (Applicant Company No.1/ Transferor Company No.1)	02	100%	Nil	Nil	56	30 (90.38%)
Hitachi Astemo Rajasthan Brake Systems Private Limited (Applicant Company No.2/Transferor Company No.2)	02	100%	Nil	Nil	287	49 (90.08%)
Hitachi Astemo Haryana Private Limited (Applicant Company No.3/Transferor Company No.3)	02	100%	Nil	Nil	258	39 (90.83%)
Hitachi Astemo India Private Limited (Applicant Company No.4/Transferor Company No.4)	04	100%	Nil	Nil	256	99 (91.49%)

Hitachi Astemo Gurugram Powertrain Systems Private Limited (Applicant Company No.5/ Transferee Company)	02	100%	Nil	Nil	164	47 (91.32%)
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11. On perusal of the aforesaid synopsis, it is observed that all the shareholders of the Applicant Companies have given their 'No Objection' to the Scheme on their respective affidavits. Therefore, the requirement of convening the Meetings of Shareholders in respect of the Applicant Companies is dispensed with.

12. Since there are no Secured Creditors in the Applicant Companies, therefore, the requirement of convening their meeting does not arise.

13. That since more than '90% in value' of Unsecured Creditors of the Transferor and Transferee Companies have given their consent/'no objection' to the Scheme on respective affidavits, therefore, the requirement of convening the Meetings of Unsecured Creditors in respect of the Applicant Companies is dispensed with.

14. **Resultantly, the Company Application stands allowed in the aforesaid terms.**

Sd/-
(L. N. GUPTA)
MEMBER (T)

Sd/-
(HARNAM SINGH THAKUR)
MEMBER (J)