

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CSA NO 782 OF 2017

In the matter of the Companies Act 2013;

AND

In the matter of Sections 230 to 232 of the Companies Act, 2013 read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;

AND

In the matter of Scheme of Arrangement of involving demerger between Hodek Vibration Technologies Private Limited having CIN U29112MH1976PTC019035 ('Demerged' Company') and Hodek Ventures Private Limited having CIN U29308PN2016PTC166035 ('Resulting Company'), and their respective Shareholders

Hodek Vibration Technologies Private Limited, a Company }
incorporated under the provisions of Companies Act, 1956 }
having its registered office at 'Gat No 767/769 Sahajpur }
Nandpur, Dhond, Pune 412202, Maharashtra.' }
CIN: U29112MH1976PTC019035 }

...First Applicant Company

Demerged Company

Hodek Ventures Private Limited, a Company }
incorporated under the provisions of Companies Act, 2013 }
having its registered office at 'Survey No. 732/A, 104B & }
105B, Leela Chambers, Leela Premises CHS Ltd., }
Pune-Satara Road, Bibwewadi Pune 411037, Maharashtra' }
CIN: U29308PN2016PTC166035 }



..... Second Applicant Company

Resulting Company

Order delivered on 10th November 2017

Coram:

Hon'ble **M.K Shrawat**, Member (J)

Hon'ble **Bhaskara Pantula Mohan**, Member (J)

For the Petitioner(s): Mr. Hemant Sethi i/b Hemant Sethi & Co

Per: Bhaskara Pantula Mohan, Member (J)

Order

1. The Counsel for the Applicants submit that the present Scheme is an Arrangement involving demerger between Hodek Vibration Technologies Private Limited ('Demerged Company') and Hodek Ventures Private Limited ('Resulting Company'), and their respective Shareholders and Creditors.
2. The Counsel for the Applicants further submit the rationale for the Scheme is that:
 1. HVTPL is engaged in business of "manufacturing" and "servicing" of the dampers for the automobile sector. The Company is on a high growth trajectory and is seeking investor participation for its manufacturing division. In this regard, to meet the investor objectives, it is proposed by the Board of Directors of the Company to separate the service division from the manufacturing division.
 2. Further, the nature of business and the risks involved in the Service division and manufacturing division are distinct from each other and there are also differences in the manner in which these two business are required to be managed. Thus, the Board of Directors of the Company considers it prudent to separate the service division from the manufacturing division.
 3. The Board of Directors of HVTPL are also of the opinion that the proposed demerger would benefit the shareholders, employees and other stakeholders



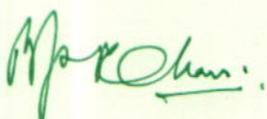
of the Company and not cause prejudice to the interests of the any of the stakeholders.

3. That the meeting of Equity shareholders of the First Applicant Company be convened and held at Gat No 767/769 Sahajpur Nandpur, Dhond, Pune 412202, Maharashtra on 15th December, 2017 and at 11.30 a.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement involving demerger between Hodek Vibration Technologies Private Limited ('Demerged Company') and Hodek Ventures Private Limited ('Resulting Company'), and their respective Shareholders .
4. The meeting of Equity shareholders of the Second Applicant Company be convened and held at Survey No. 732/A, 104B & 105B, Leela Chambers, Leela Premises CHS Ltd., Pune-Satara Road, Bibwewadi Pune 411037 on 15th December, 2017 and at 4:00 p.m. for the purpose of considering and, if thought fit, approving with or without modification(s) the proposed arrangement embodied in the Scheme of Arrangement involving demerger between Hodek Vibration Technologies Private Limited ('Demerged Company') and Hodek Ventures Private Limited ('Resulting Company'), and their respective Shareholders.
5. That at least one month before the said Meetings of the Shareholders of the said Applicant Companies to be held as aforesaid, a notice convening the said Meetings at the place date and time as aforesaid, together with a copy of the Scheme, a copy of statement disclosing all material facts as required under Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 notified on 14th December 2016 and the prescribed Form of Proxy, shall be sent by Courier /



Registered Post / Speed Post or through Email (to those shareholders whose email addresses are duly registered with the Applicant Companies for the purpose of receiving such notices by email), addressed to each of the Shareholders of the Applicant Companies, at their last known address or email addresses as per the records of the Applicant Companies.

6. That at least one month before the meetings of the Shareholders of the Applicant Companies to be held as aforesaid, a notice convening the said Meetings, indicating the place, date and time of meetings as aforesaid be published and stating that copies of the Scheme and the statement required to be furnished pursuant to Section 230(3) of the Companies Act 2013 read with Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rule, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the said Applicant Companies as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602 Nav Parmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.
7. That the Notice of the Meetings of the Equity Shareholders of the Applicant Companies shall be advertised in two local newspapers viz. 'Indian Express' in English and "Loksatta" in Marathi, both circulated in Pune not less than 30 days before the date fixed for the meetings.
8. That Mr. Abhijeet Khanvilkar Director of the First Applicant Company and failing him, Mr. Harnish Raja, Director of the First Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at Gat No 767/769 Sahajpur Nandpur, Dhond, Pune 412202, on 15th December, 2017 at 11.30 am or any adjourned or adjournments thereof.



9. That Mr., Abhijeet Khanvilkar Director of the Second Applicant Company and failing him, Mr. Harnish Raja, Director of the Second Applicant Company shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at Survey No. 732/A, 104B & 105B, Leela Chambers, Leela Premises CHS Ltd., Pune-Satara Road, Bibwewadi Pune 411037, on 15th December, 2017 at 4:00 pm or any adjourned or adjournments thereof.
10. That the Chairman appointed for the aforesaid Meetings to issue the advertisement and send out the notices of the Meetings referred to above. The said Chairman shall have all the powers as per the Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meetings, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or the Resolution, if any proposed at the meetings by any person(s).
11. That the quorum of the aforesaid meetings of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.
12. That voting by proxy or authorized representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meetings, is filed with the said Applicant Companies at their Registered Offices at Gat No 767/769 Sahajpur Nandpur, Dhond, Pune 412202 and Survey No. 732/A, 104B & 105B, Leela Chambers, Leela Premises CHS Ltd., Pune-Satara Road, Bibwewadi Pune 411037 respectively, not later than 48 hours before the aforesaid meetings.
13. That the value and the number of the shares of each Equity Shareholders shall be in accordance with the books / register of the Applicant Companies or depository records and where the entities in the books / register/ depository



records are disputed, the Chairman of the Meetings shall determine the value for the purpose of the aforesaid meetings and his decision in that behalf would be final.

14. That S.B. Marulkar, Practicing Company Secretary is hereby appointed as Scrutinizer of the meetings of Equity Shareholders of the Applicant Companies to be held on 15th December, 2017 and at 11.30 a.m. and 4:00 p.m. at Gat No 767/769 Sahajpur Nandpur, Dhond, Pune 412202 and Survey No. 732/A, 104B & 105B, Leela Chambers, Leela Premises CHS Ltd., Pune-Satara Road, Bibwewadi Pune 411037, or any adjournments thereof and his remuneration is fixed as Rs. 15000/-.
15. That the Chairman to file an affidavit not less than seven(7) days before the date fixed for the holding of the Meetings and do report to this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
16. That the Chairman of the Meetings to report to this Tribunal, the results of the aforesaid meetings within thirty days of the conclusion of the Meetings.
17. That the First Applicant Company and Second Applicant Company is directed to serve notices along with copy of scheme upon:- (i) concerned Income Tax Authority with in whose jurisdiction the Applicant Company's assessments are made, ACIT Circle - 11, Pune, 2nd Floor, B Wing, PMT Building, Swargate, Pune - 411037 (for First Applicant Company), Ward 2(1), Pune, PMT Building, Swargate, Pune - 411037 (for Second Applicant Company) (ii) to the Central Government through the office of Regional Director, Western region, Mumbai, (iii) Registrar of Companies, Pune with the direction that they may submit their representations, if any, within a period of thirty days from the date of the receipt



of such notice to the Tribunal with copy of such representations shall simultaneously be served to the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposal.

18. The Counsel for the First Applicant Company submits that since the Scheme is an arrangement between the Applicant Company and their respective shareholders only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. This bench hereby directs the First Applicant Company to issue notice to all its Secured and Unsecured Creditors with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.

19. The Counsel for the Second Applicant Company submits that there are no Secured Creditors in the Second Applicant Company, therefore the question of sending notices to the Secured Creditors does not arise. The Counsel for the Second Applicant Company further submits that since the Scheme is an arrangement between the Applicant Company and their respective shareholders only a meeting of the Equity Shareholders is proposed to be held in accordance with the provisions of Section 230(1)(b) of the Companies Act 2013. This bench hereby directs the Second Applicant Company to issue notice to all its Unsecured Creditors with a direction that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Applicant Company.

20. The said Applicant Companies to file affidavit of service in the Registry proving dispatch of notices to the shareholders, Creditors, publication of notices in newspapers and to the regulatory authorities as stated in clause 17 above and do



report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)**

Sd/-

**M. K. SHRAWAT
MEMBER (JUDICIAL)**

10.11.2017