

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

COMPANY SCHEME APPLICATION NO 5 OF 2017

In the matter of the Companies Act, 2013;
AND

In the matter of Sections 230 to 232 of the Companies Act, 2013;

AND

In the matter of Scheme of Arrangement and Amalgamation between Kirloskar RoadRailer Limited having CIN U35990PN2008PLC132445 (Transferor Company I) and Pneumatic Holdings Limited having CIN L65993PN2014PLC152566 (Transferor Company II), and Kirloskar Pneumatic Company Limited having CIN L29120PN1974PLC110307 (Transferee Company) and their respective Shareholders

Pneumatic Holdings Limited, a Company incorporated }
Under the provisions of Companies Act, 2013 }
having its registered office at Survey No 13, 156 Kothrud, }
Pune 411038 CIN: L65993PN2014PLC152566 }

.....Applicant

Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Applicant
Company

CORAM: B.S.V. Prakash Kumar, Member (Judicial)

V. Nallasenapathy, Member(Technical)

DATE: 18th January 2017

MINUTES OF THE ORDER

UPON the Application of the Applicant Company above named by a Company Application **AND UPON HEARING** Mr. Hemant Sethi instructed by Hemant Sethi & Co., Advocates for the Applicant Company, **AND UPON READING** the Application dated 4th day of January, 2017 of Mr. AniketDeshpande, Company Secretary of the Applicant Company, verified by an Affidavit and further Affidavit dated 14th January 2017 of Mr. Anil Kulkarni, Executive Director of the Applicant Company and the Annexures therein referred to, **IT IS ORDERED THAT:**

1. That the meeting of the Equity Shareholders of the Applicant Company be convened and held at Pudamjee Hall, Mahratta Chamber of Commerce,

Industries & Agriculture, Tilak Road, Pune 411002 on Tuesday, 7th March, 2017 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 and Amalgamation between Kirloskar Road Railer Limited (Transferor Company I) and Pneumatic Holdings Limited (Transferor Company II), and Kirloskar Pneumatic Company Limited (Transferee Company) and their respective Shareholders.

2. In compliance with Clause 9 of SEBI Circular No. CIR/CFD/CMD/16/2015 dated 30th November 2015, the applicant Company will also obtain the approval of shareholders to the said Scheme of Arrangement and Amalgamation through Postal Ballot and e-voting.
3. That at least 30 days before the said Meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting 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) Rules, 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 Company) for the purpose of receiving such notices by email), addressed to each of the Equity Shareholders of the Applicant Company, at their last known address or email addresses as per the records of the Applicant Company and / or Depositories.
4. That at least 30 days before the meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting, indicating the place, date and time of meeting 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) Rules, 2016 and the Form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and / or at the office of its Advocates, M/s Hemant Sethi & Co., 1602, 'A' wing, NavParmanu, Behind Amar Cinema, Chembur, Mumbai – 400071.

5. That the Notice of the Meeting 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 meeting.
6. That Mr. Atul C. Kirloskar, Chairman of the Applicant Company, and failing him, Mr. Anil N. Alawani, Director of the Applicant Company and failing him Mr. G. Krishna Rao, Director of the Applicant Company, shall be the Chairman of the aforesaid meeting of the Equity Shareholders to be held at Pudamjee Hall, Mahratta Chamber of Commerce, Industries & Agriculture, Tilak Road, Pune 411002 on Tuesday, 7th March, 2017 at 4:00 P.M. or any adjournment or adjournments thereof.
7. That Mr. Mahesh A. Athavale, Practicing Company Secretary failing him Mr. Hrishikesh Wagh, also a Practicing Company Secretary is hereby appointed as Scrutinizer of the meeting of Equity Shareholders of the Applicant Company to be held at Pudamjee Hall, Mahratta Chamber of Commerce, Industries & Agriculture, Tilak Road, Pune 411002 on Tuesday, 7th March, 2017 at 4:00 P.M., or any adjournment or adjournments thereof.
8. That the Chairman appointed for the aforesaid Meeting to issue the advertisement and send out the notices of the Meeting referred to above. The said Chairman shall have all powers as per Articles of Association and also under the Companies Act, 2013 in relation to the conduct of the meeting, including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
9. That the quorum of the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.

10. 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 meeting, is filed with the Applicant Company at its Registered Office at Survey No 13, 156 Kothrud, Pune 411038 not later than 48 hours before the aforesaid meeting.
11. That the value and number of the shares of each Equity Shareholder shall be in accordance with the books/ register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairman of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
12. That the Chairman to file an affidavit not less than seven (7) days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and the advertisement have been duly complied with.
13. That the Chairman of the meeting to report to this Tribunal, the results of the aforesaid meeting within thirty days of the conclusion of the meeting.
14. That convening and holding 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 arrangement embodied in the Scheme of Arrangement and Amalgamation between KirloskarRoadRailer Limited and Pneumatic Holdings Limited, and Kirloskar Pneumatic Company Limited and their respective Shareholders is dispensed with in view of the averments made in paragraph 2 of the Additional Affidavit dated 14th January 2017 of Mr. Anil Kulkarni, Executive Director of the Applicant Company stating that both the unsecured creditors have paid off.
15. The 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, (ii) to Securities and Exchange Board of India (iii) the Central Government through the office of Regional Director, Western region, Mumbai (iv) BSE Limited (v) National Stock Exchange of India Limited (vi) Reserve Bank of India (vii) Registrar of Companies, Pune with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such notice to the Tribunal with copy of such representations shall simultaneously be served upon the Applicant Company, failing which, it shall be presumed that the authorities have no representations to make on the proposals.

16. The Applicant Company is also directed to serve notice along with copy of scheme upon Official Liquidator. M/s USM & Associates, Chartered Accountants are appointed to assist the Official Liquidator to scrutinize books of accounts of the Applicant Company for the last 2 years. The Applicant Company to pay fees of Rs. 1,00,000/- within a period one week from today.
17. Applicant Company to file affidavit of service in the Registry proving service of notices upon shareholders, publication of notice in newspapers and notices to Regulatory authorities as stated in clause 15 above .

Sd/-

B.S.V. Prakash Kumar, Member (Judicial)

Sd/-

V. Nallasenapathy, Member (Technical)