

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

COMPANY SCHEME PETITION NO 199 OF 2017
IN

COMPANY SCHEME APPLICATION NO 6 OF 2017

Kirloskar Pneumatic Company Limited

.....Petitioner/Transferee Company

COMPANY SCHEME PETITION NO 200 OF 2017
IN

COMPANY SCHEME APPLICATION NO 7 OF 2017

Kirloskar RoadRailer Limited

..... Petitioner/Transferor Company I

COMPANY SCHEME PETITION NO 201 OF 2017
IN

COMPANY SCHEME APPLICATION NO 5 OF 2017

Pneumatic Holdings Limited

..... Petitioner/Transferor Company II

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

Called for hearing

Mr. Hemant Sethi, M/s Hemant Sethi & Co., Advocate for the Petitioners in all the
Petitions.

Mr. Ramesh Gholap, Assistant Director in the office of Regional Director

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

V. Nallasenapathy, Member (Technical)

Date: 19th April, 2017

1. Heard the learned counsel for the Petitioner Companies. None appears before this
Tribunal either to oppose the Scheme or to contravene averments made in the
Petition.

2. The sanction of this Tribunal is sought under section 230 to 232 of the Companies Act, 2013, to the Scheme of Arrangement and Amalgamation between Kirloskar RoadRailer Limited (Transferor Company I) and Pneumatic Holdings Limited (Transferor Company II), and Kirloskar Pneumatic Company Limited (Transferee Company) and their respective Shareholders.
3. The learned Counsel for the Petitioners submit that Transferor Company I is presently setting up business of carrying on multimodal transport business using RoadRailer technology of the Transferee Company. The main operations of the Transferor Company II are that of Investment and Leasing and majority of the Investments of the Company are in the nature of strategic Investments in Kirloskar group companies and Leasing. The Transferee Company is engaged in the business of manufacturing and selling air, gas and refrigeration compressors and packages thereof, hydraulic & mechanical transmission including gears and gear box and RoadRailer equipments.
4. The amalgamation of the Transferor Companies with the Transferee Company would *inter alia* have the following benefits:
 - (a) The amalgamation of the Transferor Company I with the Transferee Company shall integrate RoadRailer manufacturing technology with RoadRailer service operations thereby providing complete business solution.
 - (b) The amalgamation of the Transferor Company I with the Transferee Company shall provide greater financial strength to the RoadRailer service operations.
 - (c) The amalgamation of the Transferor Companies with the Transferee Company shall create a diversified company having a portfolio of manufacturing and service businesses.
 - (d) The amalgamation of the Transferor Company II with the Transferee Company will result in an increase in the public float of the Transferee Company's shares by approximately 15%. This will in turn increase the trading stock of the shares of the Transferee Company.
 - (e) Increase in the public float and trading stock of the shares of the Transferee Company will positively impact the liquidity of the shares of the Transferee Company.
 - (f) The amalgamation will result in the promoter group of the Transferee Company directly holding shares in the Transferee Company, which will lead not only to simplification of the shareholding structure and reduction of shareholding tiers but also demonstrate the promoter group's direct commitment to and engagement with the Transferee Company.
 - (g) Pursuant to the Scheme, all the shareholders of the Transferor Company II will get shares of the Transferee Company and there will be no change in economic

interest of any of the shareholders of the Transferee Company pre and post scheme.

- (h) Pursuant to the scheme number of shares in the paid-up share capital of the Transferee Company shall remain same, thus not affecting economic interest of other shareholders of the Transferee Company.
 - (i) Cost savings are expected to flow from more focused operational efforts, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses.
 - (j) The amalgamation of the companies shall result in achieving economies of scale.
5. Petitioner Companies have approved the said Scheme by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The learned Counsel for the Petitioner Companies further states that, the Petitioner Companies have complied with all the directions passed in Company Summons for Direction and that the Company Scheme Petition have been filed in consonance with the orders passed in respective Company Summons for Directions.
7. The learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all requirements as per the directions of this Court/Tribunal and they have filed necessary Affidavits of compliance in the Court/Tribunal. Moreover, the Petitioner Companies through their Counsel undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956 / 2013 and the rules made there under whichever is applicable. The said undertaking is accepted.
8. The Regional Director has filed his Report dated 12th April, 2017 stating therein that save and except as stated in paragraph IV of the said Affidavit, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Affidavit, the Regional Director has stated that:
- 1. *The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee company after the giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.*
 - 2. *The Transferor Company II has submitted the proof of serving notice, upon the Income Tax Authorities dated 06.02.2017 for comments. This*

Directorate has also issued reminder letters to the Income Tax Department dated 06.04.2017.

3. *Transferor Company II and the Transferee Company have furnished the No objection letter received from BSE and NSE dated 30.10.2016. In this regard it is submitted that Petitioner undertakes to comply with the conditions mentioned in the letters:*
9. In so far as observations made in paragraph IV (1) and (2) of the Report of Regional Director is concerned, the Transferee Company through its Counsel undertakes to comply with all applicable provisions of the Income Tax Act, 1961 and all tax issues arising out of the Scheme will be met and answered in accordance with law.
10. As far as observations made in paragraph IV (3) of the Report of the Regional Director is concerned, the Transferee Company through its counsel undertakes to comply with all the requisitions as per no objection letters received from BSE and NSE to the extent applicable.
11. The observations made by the Regional Director have been explained by the Petitioner Companies in paragraphs 9 and 10 above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
12. The Official Liquidator has filed his report dated 6th March 2017 stating therein that the affairs of the Transferor Companies namely Kirloskar RoadRailer Limited and Pneumatic Holdings Limited have been conducted in a proper manner and the Transferor Companies may be ordered to be dissolved without winding up.
13. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme.
14. Since all the requisite statutory compliances have been fulfilled, transferred Company Scheme Petition No. 199, 200 and 201 of 2017 filed by the Petitioner Companies are made absolute in terms of prayer clause (a) of the respective Petitions.
15. The Petitioner Companies to lodge a copy of this order and the Scheme duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
16. Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of companies, electronically,

along with E-form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by the Registry.

17. The Petitioner Companies to pay costs of Rs.25,000/- each, to the Regional Director, Western Region, Mumbai. Petitioner in Company Scheme Petition Nos. 200 of 2017 and 201 of 2017 to pay cost of Rs. 25,000/- each to the Official Liquidator, High Court, Bombay. The costs to be paid within four weeks from the date of receipt of Order.
18. All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench.
19. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

V. Nallasenapathy, Member
(Technical)

Sd/-

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