

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
COMPANY SCHEME PETITION NO. 204 OF 2017  
IN  
COMPANY SCHEME APPLICATION NO. 3 OF 2017**

Larsen & Toubro Limited

...Petitioner/Transferor  
Company

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
COMPANY SCHEME PETITION NO. 205 OF 2017  
IN  
COMPANY SCHEME APPLICATION NO. 4 OF 2017**

L&T Valves Limited

...Petitioner/Transferee  
Company

**IN THE MATTER OF:**

The Companies Act, 2013 (18 of 2013);

**AND**

**IN THE MATTER OF:**

Sections 230 to 232 of the Companies Act, 2013 and other relevant provisions of the Companies Act, 2013 along with the Companies Act, 1956;

**AND**

**IN THE MATTER OF:** Scheme of Arrangement between:

LARSEN & TOUBRO LIMITED, (“**Transferor Company/Demerged Company/Petitioner Company**”)

CIN: L99999MH1946PLC004768

L&T VALVES LIMITED, (“**Transferee Company/Resulting Company**”),

CIN: U74999MH1961PLC012188 and their respective shareholders and creditors

Called for Final Hearing:

Darius Khambata, Senior Counsel, Rajesh Shah, Advocate; Abhijeet Shinde, Advocate; Siddharth Ranade, Advocate; Ahmed M. Chunawala, Advocate; i/b Trilegal., Advocates for the Petitioner

Mr. S. Ramakantha, Joint Director for the Regional Director

Coram: SH. B.S.V. Prakash Kumar Hon'ble Member (J) and SH. V. Nallasenapthy  
Hon'ble Member (T)

Date: 20<sup>th</sup> April, 2017

**MINUTES OF THE ORDER**

1. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme and nor has any party controverted any averments made in the Petitions.
2. The sanction of the Tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to a Scheme of Arrangement between LARSEN & TOUBRO LIMITED, the Transferor Company and L&T VALVES LIMITED, the Transferee Company and their respective shareholders and creditors.
3. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolutions which are annexed to the respective Company Scheme Petitions.
4. The Learned Advocate appearing on behalf of the Petitioners states that the Company Petitions have been filed in consonance with the order passed in their Company Scheme Application No. 3 of 2016 and Company Scheme Application No. 4 of 2016 by this Tribunal.
5. The Learned Advocate appearing on behalf of the Petitioners further states that the Petitioner Companies have complied with all requirements as per directions of this Tribunal and they have filed necessary affidavits of compliance in this Tribunal. Moreover, Petitioner Companies undertake to comply with all the statutory requirements if any, as required under the Companies Act, 2013 and the Rules made thereunder whichever is applicable. The said undertaking is accepted.
6. The Learned Advocate appearing on behalf of the Petitioner Companies submits that the Transferor Company has been primarily engaged in providing technology, engineering, construction, manufacturing and financial services and the Transferee Company has been primarily engaged in manufacturing of valves for key sectors of the economy such as oil & gas, power, petrochemicals, chemicals, fertilizers and pharmaceuticals. The Learned Advocate appearing on behalf of the Petitioner Companies submits that both the Petitioner Companies have a positive net worth. The Learned Advocate appearing on behalf of the Petitioner Companies further



submits that as per the opinion of the management, the Scheme will result in many benefits for both the Petitioner Companies. In case of the Transferor Company, the Scheme will create value for its shareholders. Whereas in case of the Transferee Company, the Scheme will create value by acquiring additional facilities and availability of increased resources and assets which can be utilized to enhance and grow the business of the Transferee Company.

7. The Regional Director has filed a Report on 13<sup>th</sup> day of April, 2017 stating therein, save and except as stated in paragraph IV, it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, the Regional Director has stated that:-

*“IV. The observations of the Regional Director on the proposed Scheme to be considered by the Hon’ble NCLT are as under:*

- 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 Authorities to scrutinize the tax returned filed by the Transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding upon the Petitioner Company.*
- 2. The Transferor Company and the Transferee Company have submitted the proof of serving notice, upon the Income Tax Authorities dated 10. 02. 2017 for comments. This directorate has also issued a reminder letter to the income tax department dated 06. 04. 2017.*
- 3. Petitioner in clause 13.2 has clarified that all transactions during the period between the Appointed Date and the Effective Date relating to the Coimbatore Undertaking would be duly reflected in the financial statements of the Transferee Company at their respective transaction value upon this Scheme coming into effect, as may be decided by the Board of Directors (including committees thereof) of the Transferee Company*

*In this regard the Petitioner has to clarify regarding Accounting Standard that would be adopted by them*

- 4. Petitioner in clause 5.7 inter alia has mentioned that upon the Scheme coming into effect, in so far as the security in respect of the liabilities of the transferor company is concerned it is clarified that both the companies shall subject to confirmation by the concerned creditors mutually agree upon and arrange for*

*such security as may be considered necessary to secure such liabilities and obtain such consents under law as may be prescribed.*

*In this regard, the Petitioner may not secure the liability of the Resulting Company post arrangement of the de-merged undertaking.*

5. *Petitioner has not mentioned regarding protection of interest of Transferor Companies Staff, workmen and Employees.*
6. *The Hon'ble NCLT vide order dated 22 03 2017, that the transferor company has convened the meeting of equity shareholders of the Transferor and the Transferee Company. As per the directions of the Tribunal notice has been served to all its secured and unsecured creditors. Further it is mentioned that no response has been received from the Regional Director in response to the notice served upon them and accordingly it is deemed that the Regional Director has no objection to the proposed scheme.*
7. *Petitioner has not mentioned regarding rationale in the scheme*
8. *No observation has been given by BSE and NSE vide letter dated 19 12 2016. Transferor Company has to undertake to comply with the various provisions of the circular referred in the letters and comply with the requirements mentioned in the letter of BSE.*
8. So far as the observation in paragraph IV (1) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the tax implication if any arising out of the Scheme is subject to the final decision of the Income Tax Authorities and the decision of the Income Tax Authorities shall be binding on the Petitioner Companies.
9. So far as the observation in paragraph IV (2) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Company has noted such observation.
10. So far as the observation in paragraph IV (3) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Company undertakes to pass such accounting entries as may be necessary in connection with the Scheme to comply with all applicable accounting standards.



11. So far as the observation in paragraph IV(4) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Petitioner Companies have issued notices to their respective secured and unsecured creditors and no objections have been raised them to the sanctioning of the Scheme. The Learned Counsel for the Petitioner Companies undertakes on behalf of the Petitioner Companies that they shall take steps to secure such liabilities of the respective Petitioner Companies post sanctioning of the Scheme under law as may be applicable.
12. So far as the observation in paragraph IV (5) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the interests of the employees of both the Petitioner Companies shall remain unaffected by the present scheme.
13. So far as the observation in paragraph IV (6) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Regional Director has filled its report and they are complying with all the observations of Regional Director.
14. So far as the observation in paragraph IV (7) of the Report of the Regional Director is concerned, the Counsel for the Petitioner Companies submits that the rationale and benefits of the Scheme have been mentioned in explanatory statement issued along with the notices as well as in the respective petitions of the Petitioner Companies.
15. So far as the observation in paragraph IV (8) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies undertakes on behalf of the Petitioner Companies to comply with the various provisions of the circular referred in the letters and comply with the requirements mentioned in the letters of BSE and the NSE.
16. As far as observation of RoC, the Petitioner Companies through their counsel submits that the present scheme has all the trappings of a scheme of arrangement and there is no bar under the Companies Act, 2013 for the consideration for a scheme to be in form of cash paid to the transferor Company, where the same has been approved by the shareholders of the Transferor Company. Hence, cash consideration to the Transferor Company has been mentioned in the scheme and the same has been approved by the shareholders of the Transferor Company.

17. The observations made by the Regional Director have been explained by the Petitioner Companies in Para 8 to 15 above. The observations made by the Registrar of Companies is explained by the Petitioner Companies in Para 16 above. The clarifications and undertakings given by the Petitioner Companies are accepted.
18. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
19. Since all the requisite statutory compliances have been fulfilled, Company Petition No. 204 of 2017 is made absolute in terms of prayers clause (a) to (d) and 205 of 2017 is made absolute in terms of prayer clauses (a) to (d).
20. Petitioners are directed to lodge a copy of this order along with a copy of the Scheme of Amalgamation with the concerned Registrar of Companies, electronically along with E-Form INC-28, in addition to physical copy, as per the relevant provisions of the Companies Act 2013.
21. The Petitioner Companies to pay costs of Rs.25,000/- each to the Regional Director, Western Region, Mumbai. Cost to be paid within four weeks from the date of the receipt of the Order.
22. The Petitioner Companies to lodge a copy of this order and the Scheme duly certified by the Deputy Registrar, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for the purpose of adjudication of stamp duty payable within a period of 60 days, if any from the date of receipt of the order.
23. All concerned regulatory authorities to act on a copy of this order along with Scheme duly authenticated by the Deputy Registrar, National Company Law Tribunal, Mumbai.

Sd/-

V. Nallasenapthy Member (T)

Sd/-

B. S.V. Prakash Kumar Member (J)