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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 01.06.2018

+ CO.PET. 15/2018

IN THE MATTER OF TMD FRICTION INDIA PRIVATE
LIMITED(IN VOL.LIQN.)

..... Petitioner

Through Ms. Ruchi Sindhwani,
and Ms. Megha Bharara, Advocates
for OL.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This is a petition filed under Section 497(6) of the Companies Act, 1956 (*herein referred to as "the Act"*) by the Official Liquidator (OL), seeking for voluntary winding up of TMD Friction India Private Limited (in Members Voluntary Liquidation) (*herein referred to as the "said company"*).
2. The said Company was incorporated under the provisions of the Act with the name "TMD Friction India Private Limited" with Registrar of Companies (ROC), NCT of Delhi & Haryana at Delhi on 01.06.2012 with an authorized capital of Rs.15,00,00,000 (Rupees Fifteen Crore only) divided into 1,50,00,000 (One Crore Fifty Lakhs) equity share of Rs. 10/- (Rupees Ten) each.
3. The registered office of the said company is situated within the territory of NCT of Delhi at A-38, Kailash Colony, New Delhi-110048.
4. The first promoters at the time of incorporation were TMD Friction Holding (Lux) S.a.r.l., through its authorized representative Stefan Bernhard

Gunnewig and TMD Friction UK Ltd, through its authorized representative Stefan Bernhard Gunnewig.

5. At the time of Members Voluntary Winding up of the said company, there were two shareholders. The directors at the time of Members Voluntary Winding-up were Mr. Stefan Bernhard Gunnewig, Mr. Frank Heinz Malburg and Mr. Xavier Louis Marie Roth Le Gentil. The financial position of the said company as disclosed in the audited balance sheets ending as on 31.03.2014 & 31.03.2013 are also annexed to the present petition.

6. The prescribed Form No. 149 for the Declaration of Solvency was filed with the ROC on 29.12.2014 vide SRN No.C38096111.

7. Pursuant to the provisions of Section 484(1) of the Act and other applicable provisions of the Act, the Extra Ordinary General Meeting of the said company was held on 30.12.2014 and a special resolution was passed whereby Sh. Rajiv Kumar Adlakha, Company Secretary was appointed as Voluntary Liquidator of the said company at a remuneration fixed at Rs.1,50,000/-. In this regard Form MGT-14 was filed with the ROC on 28.01.2015.

8. That as per the requirement of Section 485 of the Act, the said company has published a notification in newspapers namely “Haribhumi” (Hindi) and “Financial Express” (English) as well as in the Official Gazette (English & Hindi) on 08.01.2015 & 24.01.2015 respectively.

9. The notice for appointment of Voluntary Liquidator in Form 152 as required under Section 493 read with Rule 315 of the Companies (Court) Rules, 1959 was filed with ROC by the said Company. The Voluntary Liquidator had also filed Form 151 with ROC for his appointment as Voluntary Liquidator.

10. Further, pursuant to the provisions of Section 497 of the Act, the Liquidator has also published Form No.155 in the newspaper namely 'Financial Express' (English) & 'Naya India' (Hindi) on 03.02.2017 & 04.02.2017 and in Official Gazette (English & Hindi) on 04.03.2017 for final meeting on 07.04.2017.

11. The Final Meeting of the said company was held on 07.04.2017 and the Voluntary Liquidator filed accounts of the said Company in Form No. 156 & 157 as prescribed under Rule 329 & 331 of the Companies (Court) Rules, 1959 for the period from 30.12.2014 to 27.01.2017 with the OL on 05.09.2017 and before the ROC on 10.04.2017.

12. The OL has received No Dues Certificate from Income Tax Department dated 07.10.2015 and no objection has been received from the ROC.

13. The Voluntary Liquidator has filed affidavit dated 31.10.2017 and the shareholders of the said company have filed indemnity bonds dated 03.05.2017 with the OL undertaking that in case of loss to any person or any valid claim arising after the winding up of the said company, they undertake to indemnify any person for such losses, valid claim and liability.

14. The OL is also satisfied that the necessary compliance of Section 497 and other relevant provisions of the Act have been made and the affairs of the said company have not been conducted in a manner prejudicial to the interest of its members or to the public interest and the said company may be dissolved.

15. In view of the foregoing and in view of the satisfaction accorded by the OL by way of the present petition, the said company is hereby wound up

and shall be deemed to be dissolved with effect from the date of the filing of the present petition i.e. 26.04.2018.

16. A copy of this order be filed by the OL with the ROC within the statutory period, as provided for in the Act.

17. The petition is accordingly disposed of.

JAYANT NATH, J.

JUNE 1, 2018/SS



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