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

% Date of decision:17.07.2019

+ **CO.PET. 16/2019**

HITACHI TRANSPORT SYSTEM INDIA PRIVATE LIMITED(IN VOL.LIQN.) ..... Petitioner

Through Mr.Kunal Sharma, Adv. for the Official Liquidator.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This is a company petition, preferred under Section 497 (6) of the Companies Act, 1956(*herein referred to as "the Act"),* by the Official Liquidator (OL). The prayer made in the petition is that the subject company, i.e. Hitachi Transport System India Private Limited *(herein referred to as the "said company*"*)*, may be wound up and finally dissolved from the date of the filing of the instant petition.

2. The record shows that the said Company in issue was incorporated on 12.11.2007, vide Registration No. – 170306, with the Registrar of Companies (ROC), NCT of Delhi and Haryana. The Corporate Identity Number of the Company is U60231DL2007FTC170306.

3. The registered office of the said Company in issue is stated to be situated at 212, DLF Galleria, Mayur Vihar Phase-I Extension, New Delhi - 110091.

4. The authorised share capital of the company, at the time of incorporation of the company, was Rs. 12,00,00,000/- (Rupees Twelve Crores Only), divided into 12,00,00,000 (Twelve Crore only) equity shares of Re. 1/- each. Subsequently, vide a special resolution passed by the members of the said Company in issue, in an extra-ordinary general

meeting, held on 15.12.2015, the authorised share capital of the Company was increased to Rs. 20,00,00,000/- (Rupees Twenty Crores Only). The record shows that the paid-up capital of the Company is Rs. 15,50,00,000/- (Rupees Fifteen Crores and Fifty Lakhs Only), divided into 15,50,00,000 equity shares of Re. 1/-, each fully paid up. As per the records, Hitachi Transport System Asia Pte Ltd holds 15,44,00,000 shares and Hitachi Transport System (Malaysia) SDN BHD holds 6,00,000 shares.

5. The directors of the said Company in issue, as on the date of passing the resolution of voluntary winding up, were Sharad Mathur, Kazuhiko Zaiki, Akhitio Nii and Rinki Agarwal.

6. The said Company has filed its audited Balance sheet, along with profit and loss account and auditor's report for the financial years ending on 31.03.2013, 31.03.2014 and 31.03.2015.

7. The Board of Directors, in their meeting held on 29.04.2016, passed a resolution for the voluntary winding up of the Company, subject to the approval of the members in the general meeting, pursuant to Section 484(1)(b) of the Companies Act, 1956.

8. The Board of Directors of the Company in their meeting held on 29.04.2016, executed and approved a declaration of solvency, which was filed with the ROC, in Form 149, as prescribed under Rule 313 of the Companies (Court) Rules, 1959 and Section 488 of the Act. The said declaration is indicative of the fact that upon an inquiry being made from the said company, an opinion had been formed that the company would be able to pay its debts, in full within a period of three years from the commencement of the winding up. The declaration of solvency was accompanied with an audited balance sheet, profit and loss account and auditor's report.

9. An extra-ordinary general meeting of the members of the said Company was held on 29.04.2016, at the registered office of the said Company, where a special resolution for the voluntary liquidation of the company was passed and one Mr. Tarun Jaggi was appointed as the Voluntary Liquidator of the Company.

10. The Voluntary Liquidator published the notification of his appointment, as required under Section 516 of the Act read with Rule 315 of the Companies (Court) Rules, 1959 in Form No. 151, in the Official Gazette on 28.05.2016, and in the newspapers, 'Business Standard', on 11.05.2016. Further, the Voluntary Liquidator had filed notice of his appointment, in Form 152, with the ROC, on 29.04.2016.

11. Further, the notice regarding the holding of the extra – ordinary general meeting on 29.04.2016, was published in the newspaper 'Business Standard' (English and Hindi Edition) on 11.05.2016, and in the Official Gazette on 28.05.2016.

12. The voluntary liquidator, as required under Section 497(1) of the Act, the final general meeting of the Company to be held on 16.10.2017, in the newspapers, 'Business Standard' (English and Hindi Edition) on 27.09.2017, and in the Official Gazette on 14.10.2017.

13. The final extraordinary general meeting of the Company was held on 16.10.2017. The Voluntary Liquidator filed accounts of the said Company in Form No. 156 and 157, as prescribed under Rule 329 and 331 of the Companies (Court) Rules, 1959, for the period from 29.04.2016 to 25.10.2017 before the ROC and the OL.

14. As per the statement of accounts of the winding up process, a total of Rs. 4,85,74,210/- (Rupees Four Crores Eighty Five Lakhs Seventy Four Thousand Two Hundred and Ten only) was recovered during the winding

up process. Further, a sum of Rs.3,44,60,305/- was paid towards taxes, audit fees, etc., Rs. 6,00,000/- was paid towards the fees of the liquidator, Rs. 66,423/- was paid towards the publication of notices and Rs. 5,16,811/- was paid towards miscellaneous expenses. A sum of Rs. 1,52,77,303/- was returned to the contributories.

15. The Voluntary Liquidator has furnished an indemnity bond, dated 23.08.2018, undertaking to indemnify the concerned parties for any losses, arising pursuant to the winding up of the Company, and to settle all lawful claims, arising in future, after the winding up of the Company.

16. The Income Tax Department has provided a certificate of no dues, dated 11.08.2017, with respect to the said Company, stating therein that as on date, there were no outstanding demands against the Company.

17. The OL has further submitted that the affairs of the said Company have been conducted in a manner, not prejudicial to the interest of the members, and is thus of the opinion that the Company may be dissolved with effect from the date of the filing of the petition.

18. Thus, having regard to the aforesaid facts and circumstances and the record of the case, the prayer made in the petition is allowed and the Company is wound up and shall be deemed to be dissolved with effect from the date of the filing of the present petition, i.e. 08.07.2019.

19. A Copy of the order be filed by the OL with the ROC within the statutory period as per the Act.

20. The petition is disposed of in the aforesaid terms.

JULY 17, 2019/sk **JAYANT NATH, J**