

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-514
CP No-156/66/ND/2019

IN THE MATTER OF:
Aktivortho Pvt Ltd

....Applicant

SECTION
U/s 66 C.A.

Order delivered on **06.07.2021**

CORAM:
SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:
For the Applicant : Adv. Priyadarshini Dewan for RD
For the Respondent :

ORDER

Per K.K.Vohra, Member (T)

1. This is a petition under Section 66 of Companies Act, 2013 for reduction of share capital. A perusal of previous papers reveals that few statutory requirements of law and rules have yet to be complied with.
2. List of Creditors mandated as attachment (i) to Form RSC-1 (application Form) pursuant to Rule 2(1) of NCLT (Procedure for Reduction of Share Capital of Companies) Rules, 2016 [Rules] does not give total amount and categories of Creditors as mentioned in Balance Sheet as on 31.3.18. The Company had long term borrowings of 338 lakh, long term liabilities of 31 lakh, short-term borrowing of 170 lakh, other current liabilities of Rs 303 lakh and trade payables of Rs 68 lakh as on 31.3.18 [Pg 71 of Petition].
3. Certificate of auditors with reference to creditors is incomplete as it does not give the total amount [attachment (ii) to RSC-1].
4. The Company has yet to issue notices in RSC-3 [Rule 3(1)(iii) of Rules] to creditors. As per requirement, notices need to be sent to each creditor.





5. Audited financials of latest five years ending 31.03.20 are needed to take comprehensive view on the prayer of the company to set off losses and reduce capital.
6. Accordingly, the Petitioner is **directed** to submit missing information in RSC-1 (list of creditors in each category with totals, certificate of auditors etc.), audited financials of last five years up to year ended on 31.3.2020 and provisional financials for the year ended on 31.3.21 and details of repayment to creditors after the date of latest audited balance sheet (31.3.20). The Company is also directed to issue notices to creditors in Form RSC-3, publish notices in Form RSC-4 in 2 newspapers as per Rule 3(3) and 3(4) of the Rules, submit complete RSC-5 and complete other requirements of law.
7. Further, Petitioner is directed to issue notices by all means (including speed post, e-mail) to statutory authorities by all modes in proper Form [RSC-2] with required attachments under Rule 3 of the Rules.
8. Notices be issued to statutory authorities through the process of the Bench too. Mr. Rishi Gupta has appeared on behalf of Regional Director (RD), MCA informing that RD is examining the issues and has sought three-week time to submit its report. Ms. Sangashri has appeared for Income Tax (IT) Department. In view of this, Notices need not be sent to RD and IT Deptt by the Bench; however, Petitioner will send Notices to all relevant statutory authorities including RD and IT Dept in proper Form as per Rules.
9. List the matter on **01.11.2021**.


(K.K. VOHRA)
MEMBER (T)


(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

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