

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

COMPANY PETITION NO 80 OF 2017

In the matter of Section 66 of the
Companies Act 2013 and the Rules
framed there under

AND

In the matter of Reduction of Share
Capital of Adata Technology India
Private Limited

Adata Technology India Private Limited)	
Company incorporated under the provisions)	
Of the Companies Act, 1956)	
Having its registered address at)	
Lotus Corporate park, A- 801)	
Jay Coach Lane, Off Western Express Higwhay)	
Goregaon East, Mumbai, MH 400063, IN)	
CIN No: U72400MH2007PTC173967) Petitioner Company

Mr. Ajinkya Kurdukar i/b. Ajinkya Kurdukar & Co., Advocates for the Petitioner Company

Judgment/Order delivered on 6th December, 2017, 2017

Coram:

Hon'ble B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble V. Nallasenapathy, Member (Technical)

Per: *V. Nallasenapathy, Member (Technical)*

Order confirming Reduction of Share Capital and Approving Minutes

1. Heard the learned counsel for the Petitioner Company. No objector has come before the Tribunal to oppose the Petition and nor any party has controverted any averments made in the Petition.
2. The Counsel for the Petitioner Company submits that the Regional Director (In charge) of the Western Region, Mumbai has filed his report dated 2nd November, 2017 stating that the Scheme is not prejudicial to the interest of the

Shareholders and public, save and except what is stated in para IV. (1) to (3) and of the said Report, the Regional Director has stated as under:

IV. 1. The Tax implication if any arising out of the Scheme is subject to the final decision of the Income Tax Authorities. The Approval of the Scheme by this Hon'ble Tribunal may not deter the Income Tax Authority to scrutinize the Tax Return filed by the transferee company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the Petitioner Company.

.2. It is submitted that, in the applicant company, both the directors are resident of china, and the company is registered as an Indian Private Limited Company with Registrar of Companies Mumbai.

.3. It is submitted that, the Applicant Company has not disclosed the details of sources for paying to its shareholders. In this regard, the Applicant Company have to undertake to disclose the same.

3. As far as the observation of the Regional Director in the paragraph IV. 1. of the Report is concerned, the Learned Counsel for the Petitioner states that the Petitioner Company undertakes to comply with applicable provisions of Income Tax Act, 1961 and abide by the decisions of Income Tax Authority, if any.
4. As far as the observation of the Regional Director in the paragraph IV. 2. Of the Report is concerned, the Learned Counsel for the Petitioner states that the Petitioner Company undertakes to comply with applicable provisions of the Companies Act, 2013, as applicable.
5. As far as the observation of the Regional Director in the paragraph IV. 2. Of the Report is concerned, the Learned Counsel for the Petitioner states that to give effect to the said reduction of the share capital, the Petitioner company shall pay its shareholders from the existing cash and cash equivalents that the company has.

6. The Learned Counsel appearing on behalf of the Regional Director from the office of the Regional Director states that they are satisfied with the explanation given by the Counsel representing the Petitioner.
7. The Counsel for the Petitioner Company further submits that Art. 3 (d) of Articles of Association of the Petitioner Company empowers the petitioner Company to reduce its share capital.
8. The Counsel for the Petitioner Company submits that the application was filed for the confirmation of the Special Resolution for the proposed reduction of share capital which will result in return of capital in excess of the requirements of the petitioner Company and will result in restructuring of its Balance Sheet. The reduction of capital in the manner proposed would enable the Petitioner Company to have a rational capital structure which is commensurate with its business and assets. The Board of Directors of the Petitioner Company at their Extra Ordinary General meeting held on 10th January, 2017 have deemed it appropriate to reduce the Issued, Subscribed and paid-up Equity Share Capital of the Company by cancellation / extinguishment of the share capital of the Petitioner Company from INR 27,54,05,500 (consisting of 2,75,40,550 Equity Shares of INR 10 each fully Paid-up) to INR 2,04,05,500 (consisting of 20,40,550 Equity Shares of INR 10 each fully Paid-up) since the equity Share capital so reduced is in excess of the wants of the company .
9. Counsel appearing on behalf of the petitioner Company states further that the Petitioner Company has complied with all the statutory requirements as per the directions of the Tribunal and they have filed necessary Affidavit of Service in the Tribunal. Moreover, the Petitioner Company also undertakes to comply with statutory requirements, if any under the Companies Act, 2013 and the rules thereunder, as may be applicable. Since the requisite statutory procedure has been fulfilled the application is made absolute in terms of prayer clause to the Petition. The Special Resolution as approved by the shareholders in their Extraordinary General Meeting held on January 10, 2017 is hereby confirmed.

10. Petitioner Company to publish the notices about registration of order and minutes of reduction by the Concerned Registrar of Companies, Maharashtra in two newspapers namely i.e. 'Free Press Journal' in English language and translation thereof in 'Navshakti, in Marathi language both having circulation in Mumbai within 30 days of registration.
11. All concerned regulatory authorities to act on certified copy of the order duly certified by the Deputy Director, National Company Law Tribunal.

Form of Minutes

"The issued, subscribed and paid share capital of the petitioner Company being Rs. 27,54,05,500 (consisting of 2,75,40,550 Equity Shares of INR 10 each fully Paid-up) be and is hereby reduced to Rs. 2,04,05,500 (consisting of 20,40,550 Equity Shares of INR 10 each fully Paid-up) on account of cancellation of Equity Share Capital.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

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