

BEFORE THE NATIONAL COMPANY LAW BOARD TRIBUNAL
MUMBAI BENCH

CP 289/66/NCLT/MB/MAH/2017

Under Section 66 of the Companies
Act, 2013

In the matter of

M/s V. M. Salgaocar Corporation Pvt.
Ltd.

.... Petitioner

Heard on: 01.12.2017

Order delivered on: 12.12.2017

Coram :

Hon'ble M. K. Shrawat, Member (J)

Hon'ble Bhaskara Pantula Mohan, Member (J)

For the Petitioner :

Adv. Hemant Sethi, Advocate for Petitioner.

Per : M. K. Shrawat, Member (J)

ORDER

1. The Petitioner M/s. V. M. Salgaocar Corporation Pvt. Ltd. had filed the petition on 19th July, 2017 under Section 66 of the Companies Act, 2013 for Reduction of Share Capital.
2. 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.
3. The Counsel for the Petitioner submit that no representation have been received from the Central Government through Regional Director or the Registrar of Companies or the Creditors within the said period, it is therefore presumed that they have no objection to the reduction of share capital.
4. By Article 53 of the Articles of Association of the Petitioner Company empowers the Petitioner Company to reduce its Share Capital in any manner for the time being authorized by law.

"53 The Company may, from time to time, by Special Resolution reduce its capital and any Capital Redemption Reserve Account or Share Premium Account

in any manner and with and subject to any incident authorized and consent required by law.”

5. The applicant company was incorporated under the Companies Act, 1956, in the State of Goa in the name of Sterling Granites Private Limited on 21st day of October, 1991, having its registered office at Salgaocar House, Off Dr. Francisco Luis Gomes Road, Vasco da Gama, Goa – 403802. Subsequently, its name was changed to VM Salgaocar Corporation Private Limited on 18th February, 2010. Presently the company has 22 shareholders and 455 creditors.
6. Thus considering the business plan of the Company, the Board of Directors of the Petitioner Company at their meeting held on 12th July, 2017 have deemed it appropriate to reduce from Rs. 1,05,00,000/- (Rupees One Crore Five Lakhs only) consisting of fully paid up 1,05,000 Equity shares of Rs. 100/- (Rupees Hundred) each **to** Rs. 59,55,100/- (Rupees Fifty-Nine Lakh Fifty-Five Thousand and One Hundred only) consisting of fully paid up 59,551 Equity shares of Rs. 100/- (Rupees Hundred) each, by cancellation and reduction of Rs. 45,44,900/- (Rs. Forty-Five Lakh Forty-Four Thousand Nine Hundred only) consisting of 45,449 (Forty-Five Thousand Four Hundred and Forty-Nine) fully paid-up equity shares of Rs. 100/- each.
 - 5.1 As on 31st March, 2017 the Financial Position of Balance Sheet annexed, is that under the head “*Current Assets*” the cash and bank balance available was Rs. 290,93,44,448/- (Two Hundred and Ninety Crores Ninety-Three Lakh Forty-Four Thousand Four Hundred and Forty-Eight only). It is pointed out that as on 31st March, 2017 cash equivalent is Rs. 26,83,64,924/- (Twenty-Six Crores Eighty-Three Lakhs Sixty-Four Thousand Nine Hundred and Twenty-Four only). On the other side of the Balance Sheet the “*Current Liability*” is of Rs. 15,02,56,903/- (Fifteen Crores Two Lakhs Fifty-Six Thousands Nine Hundred and Three only) mainly consisting of Audit Fees and a provision made for RoC compliance fees.
7. Since its incorporation, the Petitioner Company carrying a business of hotels, restaurants, cafes, holiday camps, beer houses, refreshment rooms, night clubs, amusement caterers, confectionaries, license victuallers, wine and spirit merchants, tourist agents and guides, money changers, depository proprietors, lodging or apartment housekeepers, proprietors and managers of leisure and entertainment centres having facilities for conduct of games of electronic amusement/slot machines and/or facilities of reels and video machines, clubs and casinos of every sort and kind, music halls, concert, dancing halls, pleasure grounds and places of amusement, recreation, sports and activities of like nature and provide manner of entertainment, amusement, recreation for the public on land, sea vessels, etc. and proprietors of motor coaches, motor cars and other business which can be conveniently carried on in connection therewith and calculated directly or indirectly to

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enhance the value of or facilitate the realization of or render profitable any other rights or properties or business of the Company.

8. The Counsel for the Petitioner Company submits that there is a "Family Settlement and Agreement" entered into between members of Shivanand V. Salgaocar Family and Dattaraj V. Salgaocar Family as recorded in the Consent Terms filed with the Hon'ble Bombay High Court in Suit No. 719 of 2013 (Order dated 06.12.2016) in light of the currently structured business operations. Pursuant to the said Consent Terms, the Board of Directors and the Shareholders of V. M. Salgaocar Corporation Private Limited are proposing to carry out a reduction of its capital.
9. The Counsel for the Petitioner Company further submits that the Petitioner having passed a Special Resolution with requisite majority at its Extra Ordinary General Meeting held on 17th July, 2017, for reduction of share capital and authorising to file a requisite Petition before NCLT, moved this Petition, for ready reference, relevant portion reproduced below :-

"RESOLVE THAT, pursuant to the provisions of Section 66 of the Companies Act, 2013 and other applicable provisions, if any, of the Companies Act, 2013, and Article 53 of the Articles of Association of the Company and subject to the confirmation of the Hon'ble National Company Law Tribunal, Mumbai Bench ("NCLT") and other appropriate authorities in this regard, if any, the Issued, Subscribed and Paid-up Equity Share Capital of the Company be and is hereby reduced from Rs. 1,05,00,000/- (Rupees One Crore Five Lakhs only) consisting of fully paid up 1,05,000 Equity shares of Rs. 100/- (Rupees Hundred) each to Rs. 59,55,100/- (Rupees Fifty-Nine Lakh Fifty-Five Thousand and One Hundred only) consisting of fully paid up 59,551 Equity shares of Rs. 100/- (Rupees Hundred) each, by cancellation and reduction of 45,449 (Forty-Five Thousand Four Hundred and Forty-Nine) equity shares of Rs. 100/- each, fully paid up, held by Shivanand V. Salgaocar, Ranjana S. Salgaokar, Vivek S. Salgaokar, Swati S. Salgaokar, Salgaokar Real Estate And Properties LLP, Ganadev Real Estate Private Limited, Great Lake Finance And Leasing private Limited, V. M. Salgaokar And Brother private Limited, and Srinidhi Real Estate LLP (hereinafter referred to as the "Specified Shareholders") without consideration and the shares held by the Specified Shareholders shall, without any application or deed, stand cancelled without any payment and simultaneously with such cancellation the Issued, Subscribed and Paid-up Share Capital of the company shall stand correspondingly

reduced. The said cancellation of paid-up share capital of the Specified Shareholders shall be in accordance with and pursuant to the terms of Family Settlement and Arrangement recorded in the 'Consent Terms' filed with Hon'ble High Court of Bombay on 6th December, 2016 entered into by the shareholders of the Company with a view to ensure an amicable settlement of the family disputes, differences and litigations and to restore family peace, harmony and goodwill.

RESOLVE FURTHER THAT upon approval of reduction by Mumbai Bench of the National Company Law Tribunal, 45,499 (Forty-Five Thousand Four Hundred Forty-Nine) fully paid-up equity shares of Rs. 100/- each of the Company shall stand cancelled and rendered invalid, without any further act or deed by the Specified Shareholders of the Company.

RESOLVE FURTHER THAT upon the reduction becoming effective, the existing Share Certificate of the Company held by Specified Shareholders shall stand cancelled without any further act or deed.

RESOLVE FURTHER THAT Mr. Dattaraj V. Salgaocar, Managing Director, and Mr. Shivanand V. Salgaocar, Mrs. Ranjana S. Salgaocar, Mr. Anthony E. Barreto, Mr. Antonio F.C. Pinto, and Mr. Ashwyn Kumar R. Nayak, Directors of the Company, be and are hereby jointly and severally authorised to do all such acts, deeds, matters and things, and to execute all such documents, deeds and writings as may be required for all the aforesaid purposes, including making necessary applications to the Hon'ble NCLT or any other competent authority, as it may, in its absolute discretion, deem necessary, expedient, usual or proper to give effect to the above Resolution or to carry out such modifications/directions as may be ordered by the Hon'ble NCLT and all other appropriate and/or relevant/concerned authorities but without any further recourse to the Shareholders."

10. It is placed on record that MGT 14 was listed with the RoC, Mumbai in respect of the Special Resolution passed by the Members/shareholders in their Extra Ordinary General Meeting held on 17th July, 2017 for the approval to the Reduction in Share Capital of the Company.
11. Counsel appearing on behalf of the Petitioner Company further submits that the Petitioner has complied with all the statutory requirements as per the directions of the Tribunal and they have filed necessary Affidavit of compliance in the Tribunal. Moreover, the Petitioner Company also undertakes to comply with statutory

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requirements, if any under the Companies Act, 2013 and the Rules made thereunder, as may be applicable. Since the requisite statutory procedure has been fulfilled the petition is made absolute accordingly. The Special Resolution as approved by the shareholders in their Extraordinary General Meeting held on 17th July, 2017 is confirmed.

12. The Capital of the Petitioner Company shall henceforth be Rs. 59,55,100/- divided into 59,551 paid up Equity Shares of Rs. 100/- each.
13. Sec. 66 (4) prescribe for Publication in the Newspaper. Public Notice by advertising in News Paper viz. "The Goan" in English language and "Gomantak" in Marathi language hence published relevant evidence is placed on record.
14. Petition for reduction of share capital allowed subject to the direction given herein above. All concerned regulatory authorities to act on production of certified copy of this order to be issued on demand by the Deputy Director, National Company Law Tribunal.
15. Ordered Accordingly.

Sd/-

Bhaskara Pantula Mohan
Member (Judicial)

Sd/-

M. K. Shrawat
Member (Judicial)

Dated : 12th December, 2017