

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH

CP No. 310/2(41)/NCLT/MB/MAH/2017  
Under Section 2(41) of the Companies Act,  
2013

In the matter of  
M/S. Analytics Quotient Service India Pvt.  
Ltd.

.....Petitioner/Applicant

Heard on : 23.11.2017  
Order delivered on: 19.12.2017

**Coram :**

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

**For the Petitioner/Applicant :**

Manisha Sawant, Practising Company Secretary.

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

1. The Petition under consideration is filed on 25<sup>th</sup> July, 2017 u/s 2(41) of the Companies Act (hereinafter referred as 'The Act') seeking approval to adopt an accounting period other than the "Financial Year" as prescribed vide this Section enforced w.e.f. 1<sup>st</sup> January, 2018.
2. From the side of the Petitioner/Applicant, Practising Company Secretary Manisha Sawant appeared and explained facts as also the law applicable for disposal of this Petition.
3. Facts of the Case are within the narrow compass that the Petitioner/Applicant Company was originally incorporated in Mumbai under the provisions of the Companies Act, 1956 as a Private Limited Company vide Certificate of Incorporation dated 9<sup>th</sup> September, 2008 issued by the Registrar of Companies, Mumbai, Maharashtra, having CIN No. U74140MH2008PTC290956. The Registered office of the Company and the address for correspondence is situated at M/s Millward Brown Market Research India PLT, Unit No. 702, 7<sup>th</sup> Floor Akruiti Star, MIDC Central Road, Mumbai - 400093, Maharashtra with the main object to carry on solve the client's business problems by innovatively using marketing consulting frameworks, design statistics, CRM, transaction analysis and technology.
  - 3.1 In the Petition, it is stated that the Petitioner/Applicant Company is the "Subsidiary Company" of a "Indian Holding Company" namely Firefly Market Research India Pvt. Ltd., a body incorporated outside India. The holding company is holding 99.60% shares of the company.
  - 3.2 The Petitioner/Applicant Company submits that; the Indian Holding Company had filed an application seeking retention of calendar year as its Financial Year

i.e. from 1<sup>st</sup> January to 31<sup>st</sup> December to the Company Law Board. The Company Law Board approved the application and passed an order on 20<sup>th</sup> January, 2016 vide order no. 15/2(41)/CLB/MB/2016. The Petitioner/Applicant Company and the Indian Holding Company, being group companies, are indirect subsidiaries of WPP Jubilee Limited (the Foreign Holding Company) (a foreign body corporate registered in the United Kingdom) and the accounts of the Indian Holding Company and that of the Petitioner/Applicant Company are consolidated in the accounts of the Foreign Holding Company.

- 3.3 The current Financial Year of the Applicant is the period from 1<sup>st</sup> April to 31<sup>st</sup> March which is different from the Financial Year followed by the Foreign Holding Company.
- 3.4 The copy of the consent letter by the Foreign Company is also attached with the Petition.
4. In the backdrop of the brief facts, a question had cropped up that what was the legal necessity to file this Petition? The explanation offered was that on incorporation of the Companies Act, 2013, a Section i.e. Section 2(41) was introduced under the head "Definitions", wherein the term "Financial Year" has been defined; reproduced below for ready reference:

*"Section 2(41) Financial year", in relation to any company or body corporate means the period ending on the 31<sup>st</sup> day of March every year, and where it has been incorporated on or after the 1<sup>st</sup> day of January of a year, the period ending on the 31<sup>st</sup> day of March of the following year, in respect whereof financial statement of the company or body corporate is made up."*

- 4.1 As per this definition, every Indian Company should adopt Financial Year as its accounting period ending on 31<sup>st</sup> day of March every year. As per this "Definition Section", an Indian Company is under statutory obligation to formulate its accounts by adopting accounting period of one Financial Year starting from 1<sup>st</sup> day of April and ending on 31<sup>st</sup> day of March each year. The basic purpose of legislation of this "Definition" in this newly enacted Act seems to be to make a law to adopt a uniform system of accounting for all Indian Companies. Hence, an unambiguous law has been made according to which every Indian Company is legally required to uniformly have one pattern of accounting year. i.e. Financial Year, commencing from 1<sup>st</sup> April and ending on 31<sup>st</sup> March every year. It may not be out of place to mention that the other Acts such as Income Tax Act also recognize Financial Year as the accepted accounting period for a corporate body. As a result, by this legislation a uniformity is laid down among several such Acts. So, the rule is framed that every corporate entity shall adopt its accounting year only on Financial Year basis.
- 4.2 However, an exception to this general rule has been carved out by inserting First Proviso to Sub-section (41) to Section 2, which reads as under:-

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*"Provided that on an application made by a company or body corporate, which is holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:*

*Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause."*

5. Keeping in mind the above requirement of law, a compliance has been made by the Petitioner/Applicant by filing the Petition under consideration, seeking approval of NCLT for adopting an accounting year other than the Financial Year. This departure from the main rule is permissible under one circumstance. It is prescribed that in a situation when either a holding or a subsidiary Company is incorporated outside India and that Foreign Company is following a different accounting year, other than the Financial Year, the for consolidation of account with the accounts outside India, an approval from the Tribunal is a legal requirement and, if satisfied, pass an Order to this effect.
6. For due compliance the Petitioner/Applicant has demonstrated that a resolution has been passed on 14<sup>th</sup> of June, 2017 giving consent to adopt the accounting period from January to December so as to match with the holding company.
7. In the light of the factual matrix and legal positon, it is hereby held as under:-

ORDER

The Petitioner/Applicant Company being a subsidiary of Indian Holding Company which is maintaining its account from January to December basis in terms of the then CLB dated 20<sup>th</sup> January, 2016 (no. 15/2(41)/CLB/MB/2016); therefore required to consolidate the accounts of the Petitioner/Applicant Company. Hence it is hereby ordered by exercising the powers enshrined accordingly u/s 2(41) of the Companies Act that the accounting period of the Petitioner/Applicant shall be aligned by adopting Calendar Year (From 1<sup>st</sup> January to 31<sup>st</sup> December) as the accounting period.

8. The Company Petition is allowed. Copy of the Order to the Petitioner/Applicant for requisite compliance. No Order as to cost.

Sd/-

**Bhaskara Pantula Mohan**  
Member (J)

Sd/-

**M. K. Shrawat**  
Member (J)

Dated : 19<sup>th</sup> December, 2017