

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
CHENNAI

Arguments heard on 03.11.2016

Orders passed on 03.11.2016

C.A.No.131 of 2016

(Under proviso to sub-section (41) of Sec.2 of the Companies Act, 2013)

Applicant : M/s. Fenner Conveyor Belting Private Ltd., represented
by its Director Mr N.Sridhar, duly authorised by the Board.

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ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

CH MOHD SHARIEF TARIQ
MEMBER(JUDICIAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL) :- (ORAL)

1. Under consideration is an application filed by Applicant Mr.N.Sridhar on behalf of M/s.Fenner Conveyor Belting Private Ltd. (for short FCBPL) under Section 2 (41) of the Companies Act, 2013 read with regulations 13, 14, 17 and 42A of the Company Court Rules, 1959, for allowing FCBPL to follow the financial year starting from 1st September and ending with 31st August.

2. The brief facts of the case are as follows :-

FCBPL was incorporated on 24th May 2000, as an Indian company and its shareholders as on date of 31st December, 2005 are M/s.JH Fenner & Co (India) Ltd., based out in the United Kingdom, holding 7,060,000 equity shares (99.99%) and M/s.Fenner International Ltd., based out in the United Kingdom holding 7 shares (0.01%). By virtue of shareholding, JH Fenner & Co. (India) Ltd (99.99%) is the holding company for FCBPL. JH Fenner & Co (India) Ltd. is a subsidiary of Fenner International Limited, UK which is ultimately held by Fenner PLC, UK.

i) JH Fenner & Co (India) Ltd. was registered on 10th July 1942 (Number: 00374985) with its registered office situated at Hesselewood County Office Park, Ferriby Road, Hessle, East Yorkshire HU13OPW, United Kingdom. The company is a private company limited by shares and has an “Active” business status as on date and following the financial year 1st September to 31st August.

ii) Fenner PLC is a leading UK-based manufacturer of industrial belting and other polymer-based products. It is headquartered in Hessle and is listed on the London Stock Exchange. The business was founded by Joseph Henry Fenner in 1861 as a manufacturer of leather belting at Bishop Lane in Hull, England. The financial year of the Company starts with 1st September and ends with 31st August. Its financial statement consolidated with more than 100 companies.

3. Since incorporation, FCBPL is said to have been following its financial year as September-August which is in line with its group practice globally. This can be seen from the certified copies of audited financial statements of the company for the last three years placed on record. Further, there are two Balance sheets of Fenner PLC placed at Page70 and Page65 of the Annual Reports for the years 2014 and 2015 respectively, which are authenticated by the Notary Public, Anlaby Common, England. The said Balance sheets confirm that the ultimate holding company follows the financial year as September-August.

4. Further, Fenner PLC, vide dated 29th January 2016 has given no objection to FCBPL for following the financial year as 1st September to 31st August. The applicant company has also placed on file the minutes of the Board Meeting held on 21st December 2015 for approval to move

an application before CLB for permission to follow the required financial year, for which Mr N.Sridhar, Director, has been authorised for filing the present application.

5. We have heard Mr.S.Jegan, PCS, representing Mr.N.Sridhar, Director, who is [N.Sridhar] duly authorised by the company to file the application and perused the record placed on file.

6. As per the facts stated above and looking to the relevant records of the applicant company [FCBPL] and its ultimate holding company [Fenner PLC], it appears that both of them have been following the financial year as September-August for consolidation of its accounts outside India. In view of this and the powers conferred under the proviso to sub-section (41) of Section 2 of the Companies Act, 2013, we are satisfied that FCBPL is required to follow the financial year from 1st September to 31st August for consolidation of its accounts outside India. Therefore, we allow the application of FCBPL seeking to follow financial year as September-August for consolidation of its accounts outside India. Accordingly, the application is disposed of. A copy of this order shall be sent by the company to the Registrar of Companies concerned for information and record as per the procedures laid down.


(ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)


(CH MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)