

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
C.P.NO. 19/2016**

***PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

IN THE MATTER OF SECTION 2(41) OF THE COMPANIES ACT, 2013

AND

**IN THE MATTER OF
M/S HALLITE SEALING SOLUTIONS INDIA PRIVATE LIMITED**

C.P.NO. 19/2016

- 1. Hallite Sealing Solutions India Private Limited
Special Plot No. 10,
3rd Main, 1st Stage,
Peenya Industrial Estate,
Bangalore-560058**

- **APPLICANT**

PARTIES PRESENT:-

Ms. S.C Sharada, Practicing Company
Secretary, 405, II floor, VII Cross, IV Block,
Koramangala, Bangalore-560034.
and Authorised representative for the
Applicant.

Heard on 08/12/2016.

ORDER

This petition is filed by the Petitioner under section 2(41) of the Companies Act, 2013 with a prayer to permit the company which is a subsidiary of body corporate registered outside India to continue the existing financial year 1st September to 31st August as its financial year for the purpose of consolidation of its accounts with its holding company in line with global practice.

The averments in the Company petition are briefly stated hereunder:

The Petitioner Company is a Private Limited Company, incorporated under the Companies Act, 1956 on 27th February 2012 under the name and style of "Hallite Sealing Solutions India Private Limited" vide Corporate Identity No. U25190KA2012FTC062730. The Registered Office of the company is situated at # Special Plot No.10, 3rd Main, 1st Stage, Peenya Industrial Estate, Bangalore-560058.

The main objects of the Company is to carry on the business as manufacturers, traders, importers, exporters, distributors, marketing agents of all types of seals made out of plastic and other materials, plastic components and all articles and things made out of plastic, packaging material made from plastics, plastic films, plastic sheets, tapes, pallets, PVC, metal foils-treated or laminated, water soluble films, leather cloth, resin, wood aluminum foils, thermoplastic material etc.,



The Petitioner Company filed application before Company Law Board with a request to approve the financial year from 1st September to 31st August. The said petition was transferred to this Tribunal. It is further stated that the Petitioner Company filed Form GNL-1 with Registrar of Companies, Karnataka, Bengaluru vide SRN C80322910 dt: 01/03/2016. Though the form filed was correct, it came back for resubmission twice with the following remarks:

1st resubmission: to continue the financial year from September to August, ROC has no power under section 2 (41). 2nd resubmission: intimation to be filed with the Registrar in GNL-2.

The Company could not resubmit in GNL-2 since technically only GNL-1 which was the form originally submitted could be resubmitted. That is to say resubmission in a new form was not possible.

It may be noted that the Company had used the correct form GNL-1 for filing the application u/s 2(41) of the companies Act, 2013 and not GNL-2 which is a form to be used in case of intimation to Registrar of Companies. Due to technical reasons explained above, the Company could not resubmit the Form in GNL-2. After a lapse of the prescribed time, the Form GNL-1 was treated as invalid and transaction was cancelled by Registrar of Companies on 13/7/2016.

It is further averred that, basing on the submission made in IA 01/2016, the Tribunal vide its order dated 23rd August 2016 allowed the Applicants with a permission to the Petitioner Company to withdraw the petition, so as to enable the Company to file fresh application under section 2(41) of the Companies Act, 2013 before this Tribunal. Hence this Application.



The Petitioner Company is a wholly owned subsidiary of the Holding Company viz., Fenner Singapore Pte. Ltd., and the Holding Company is a wholly owned subsidiary of the Ultimate Holding Company – Fenner PLC, UK. Since the ultimate holding company has adopted financial year is from 1st September to 31st August; the petitioner company is required to maintain accounts and close financials as on 31st August every year. The Holding Company does not have a statutory requirement to prepare accounts, as the same will be consolidated in financials of Ultimate Holding Company.

The Holding Company is required to consolidate its financials with audited financials of its subsidiaries including the petitioner company. The financial year adopted by holding company was based on the compliance requirements of US Laws as well as applicable laws for other subsidiaries. Changing the financial year of all the subsidiaries of the holding company to 1st April – 31st March, is not practically possible.

Hence the Holding Company and ultimate Holding Company is required to consolidate its financial statements. The certified copy of the latest audited financials of the Holding Company is enclosed with the Petition.

As per section 2(41) of the Companies Act, 2013 which reads as follows:

“financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up;

Provided that on an application made by a company or body corporate, which is a 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;”

The Board of Directors of the Petitioner Company at the meeting held on 5th January 2016 and on 16th August 2016 passed a resolution seeking for continuation of financial year as 1st September to 31st August, every year. The Resolution of Board of Directors is enclosed with Petition.

The Practicing Company Secretary submitted that, ultimate Holding Company Fenner PLC, UK vide their letter dated 29th January 2016 has given consent for following 1st September to 31st August as the financial year.

We have seen the documents along with petition and also the report of the Registrar of Companies, Karnataka, Bangalore who recommended the application may be considered on merits. Certified copy of latest Balance sheet of the Holding Company is enclosed with the Petition. We have seen the Board Resolution of the Petitioner Company. So there are grounds to permit the Petitioner Company to continue 1st September to 31st August every year as its financial year for the purpose of consolidation of accounts.

Accordingly, the following order is passed under section 420 read with section 2 (41) of the Companies Act, 2013:-

The Petitioner Company "HALLITE SEALING SOLUTIONS INDIA PRIVATE LIMITED" is permitted to retain its financial year as 1st September to 31st August to match with the financial year of the Holding Company/Ultimate Holding Company.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 22nd DAY OF DECEMBER, 2016