

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP No.197/2017

Under section 2(41) of CA 2013

In the matter of

Sempertrans India Pvt. Ltd.
Chanera, Taluka Roha, Raigad,
Maharashtra. PIN – 402 109.

...Petitioner

Order delivered on 27.06.2017

Coram:

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

Hon'ble V. Nallasenapathy, Member (Technical)

Present: Mr. C.S. Jignesh Makwana, Practicing Company Secretary, for the
Petitioner.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. The Petitioner Company filed this Company Petition seeking the following relief:

"That the Applicant be allowed to continue to follow a financial year beginning with 1st January and ending with 31st December which is different as provided by the Act so that financial statement of the Applicant Company can be consolidated with the holding company."

2. The Petitioner company was incorporated on 24.01.2010, having CIN : U24200MH2000PTC123800, as a private limited company under the

Companies Act, 1956, having its registered office at Plot No. 21, MIDC Dhatav, Roha, Raigad, Maharashtra – 402 110 .

3. Petitioner Company submits that it is a subsidiary of M/s. Semperit Aktiengesellschaft Holding, Austria, a foreign body corporate, incorporated and registered in Austria. The petitioner submits that the holding company follows 1st January to 31st December of every year as its financial year. The Petitioner company presently follows 1st January to 31st December as its financial year.

4. Section 2(41) of the Companies Act, 2013 provides that: “financial year”, in relation to any company or body corporate, means the period ending on 31st March of every year, and where it has been incorporated on or after 1st day of January of a year, the period ending on 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;

5. In order to align the financial year of the Applicant company with that of the holding company for consolidation of accounts, the Petitioner company filed this Petition for permission to continue to follow a financial year beginning with 1st January and ending with 31st December.

5. On hearing the submissions of the professional appearing on behalf of the Petitioner, it is evident that Applicant Company is a Subsidiary company of Holding Company incorporated outside India. Therefore, to align with the financial year of the holding company, we are of the view that there is a need to allow the applicant company to continue to have its Financial Year from 1st January to 31st December of every year as is provided in Section 2(41) of the Companies Act, 2013 conferring powers on National Company Law Tribunal, or to allow any of the period as mentioned in section as financial year.

5. Therefore, this Bench hereby allows the Petitioner Company to continue to follow the financial year starting from 1st January of every year and closing on 31st December, and for the years to come.

6. Accordingly, this Company Petition is allowed.

Sd/-
V. NALLASENAPATHY
Member(Technical)

Sd/-
B. S. V. PRAKASH KUMAR
Member (Judicial)