

BEFORE THE NATIONAL COMPANY LAW BOARD TRIBUNAL

MUMBAI BENCH

COMPANY PETITION NO 10 OF 2017

In the matter of Section 66 of the Companies act 2013 and the Rules framed thereunder.

AND

In the matter of Reduction of Share Capital of Andromeda Sales and Distribution Private Limited

Andromeda Sales and Distribution Private Limited

.....Petitioner Company

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co., Advocates for the Petitioner.

**Coram: B.S.V. Prakash Kumar, Member (Judicial)
V. Nallasenapathy, Member (Technical)**

Date: 5th July , 2017

Order confirming Reduction of Share Capital and Approving Minute

1. 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.
2. 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 .
3. The Counsel for the Petitioner further submits that Article 4(C) of the Articles of Association of the Company empowers the Petitioner Company to reduce its share capital.
4. The Counsel for the Petitioner Company submits that the petition was filed for the confirmation of the Special Resolution for the proposed reduction of share capital will result in paying off the surplus fund to the shareholders and the financials shall depict the accurate financial position of the company. Further, to reduce the securities premium to the extent of dividend paid in excess of Free Reserves as on 31st March, 2016. Thus considering the business plan of the Company, the Board of Directors of

the Petitioner Company at their meeting held on 08th November, 2016 have deemed it appropriate to reduce from Rs. 84,738,360/- (Rupees Eight Crores Forty Seven Lakhs Thirty Eight Thousand Three Hundred and Sixty Rupees only) comprising of 83,12,154 (Eighty Three Lakhs Twelve Thousand One Hundred and Fifty Four) Equity shares of Rs.10 (Rupees Ten) each fully paid up and 161,682 (One Lakh Sixty One Thousand Six Hundred and Eighty Two) Compulsorily Convertible Preference Shares of Rs.10 (Rupees Ten) each fully paid up to Rs. 75,405,010/-(Rupees Seven Crores Fifty Four Lakhs Five Thousand and Ten only) comprising of 73,96,626 (Seventy Three Lakhs Ninety Six Thousand Six Hundred and Twenty Six) Equity shares of Rs. 10 (Rupees Ten) each fully paid up and 143,875(One Lakh Forty Three Thousand Eight Hundred and Seventy Five) Compulsorily Convertible Preference Shares of Rs.10 (Rupees Ten) each fully paid up. Further there will be reduction in the securities premium account amounting to Rs. 8,88,64,447/- (Inclusive of the Premium to be paid at Rs.65/-per share on Share Reduction and reduction of securities premium to the extent of dividend paid to the shareholder in excess of Free Reserves as on 31 March 2016). Payment of cash to the shareholders amounting to Rs.70,000,125/- pursuant to capital reduction.

5. The Counsel for the Petitioner Company states that the Petitioner now proposes to reduce only the Securities Premium Account to the extent of Rs. 2,81,97,672/- (Rupees Two Crore Eighty One Lakhs Ninety Seven Thousand Six Hundred and Seventy Two) representing the dividend paid in excess of Free Reserves as on 31st March, 2016 .
6. The Petitioner Company has filed an Additional Affidavit dated 27th June 2017 and annexed thereto a copy of Special Resolution passed by the Shareholders in their meeting held on 05th June, 2017 approving reduction of Securities Premium Account to the extent of Rs. 2,81,97,672/- (Rupees Two Crore Eighty One Lakhs Ninety Seven Thousand Six Hundred and Seventy Two). Copy of Special Resolution is annexed as Exhibit C to the Additional Affidavit dated 27th day of June , 2017. The

revised form of minutes is annexed as Exhibit-E to the Additional Affidavit. The reason for revision is stated in paragraph 4 of the Additional Affidavit.

7. 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 05th June, 2017, for reduction of the Securities Premium Account to the extent of Rs. 2,81,97,672/- (Rupees Two Crore Eighty One Lakhs Ninety Seven Thousand Six Hundred and Seventy Two) .
8. Counsel appearing on behalf of the Petitioner Company states 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 requirements. None of the parties have come forward to oppose proposed reduction. 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 5th June 2017 is confirmed.
9. The minutes set forth in the schedule hereto be and is hereby approved.
10. Petitioner to publish the notices about registration of order and minutes of reduction by the Concerned Registrar of Companies, Maharashtra in two newspapers namely i.e. 'Free Press' in English language and translation thereof in 'Navshakti', in Marathi language both having circulation in Mumbai within 30 days of registration .
11. All concerned regulatory authorities to act on certified copy of the order duly certified by the Deputy Director, National Company Law Tribunal.

Form of Minutes

The Securities Premium Account of the Petitioner Company be and is hereby reduced to the extent of Rs. 2,81,97,672/- (Rupees Two Crore Eighty One Lakhs Ninety Seven Thousand Six Hundred and Seventy Two).

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

B.S.V. Prakash Kumar, Member (J)