

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COMPANY PETITION NO. 151 / 66 /NCLT/MUM/ 2017**

In the matter of the Companies Act, 2013

AND

In the matter of Sections 66 of the Companies Act,
2013;

AND

In the Matter of Fischer Chemic Limited

And

In the matter of the Reduction of Equity Share
Capital of Fischer Chemic Limited and its
shareholders

Fischer Chemic Limited

... Applicant Company

Date : 9th August, 2017

Coram: Hon'ble Sh. B.S.V. Prakash Kumar, Member (J)
Hon'ble Sh. V. Nallasenapathy, Member (T)

Called for Hearing

Mr. Naser Ali Rizvi i/b. M/s. Thakore Jariwala & Associates, Advocates
for Applicant

Mr. R. Paula, Deputy Registrar of Companies in the Application.

Per: Sh. V. Nallasenapathy, Member (T)

Order confirming Reduction of Share Capital and Approving Minute

1. Heard the Learned counsel for the Applicant Company. No objector has come before the Tribunal to oppose the Application and nor any party has controverted any averments made in the Application.

2. The Counsel for the Applicant submit that no representations have been received from the Central Government through Regional Director or the Registrar of Companies, SEBI 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 Applicant Company submits that Article 52 of the Articles of Association of the Company authorize the Applicant Company to reduce its share capital.
4. The Counsel for the Applicant submits that the proposed Reduction of Equity Share Capital is for the reason that due to heavy losses incurred by the Company during last few years, the capital of the Company has been eroded, the net worth has become negative and the promoters of the Company have planned a strategy to revive the Company with the financial help from Business associates and to reflect its assets and liabilities at their real value and maximize its business value and the continuous losses have substantially wiped off the value represented by the Capital, reserves and surplus, the financial statements do not reflect the correct picture of the health of the Company and thus to ensure that the financial statements of the Company reflect the real picture and the Capital, reserves and surpluses, which are lost, are not continued to be shown on the face of balance sheet, it is necessary to carry out reduction of capital of the Company. The reduction of capital in the manner proposed would enable the Company to have a rational capital structure which is commensurate with its remaining business

and assets. The financial restructuring will help the Company to reflect better its operational efficiency, improvements in the future years and reflect the true shareholder value. Further, there would be a positive impact on the various key financial ratios such as Net Profit Margin, Return on Capital Employed, and Return on Net worth etc. It is specified that the reduction in Share Capital does not involve either the diminution of any liability in respect of any unpaid capital or the payment to any shareholder of any paid-up capital nor is any call being waived. The Creditors of the Company are in no way affected by the proposed restructuring by way of the reduction of capital as there is no reduction in the amount payable to any of the creditors, no compromise or arrangement is contemplated with the creditors and there is no cash outflow from the Company. Further the proposed restructuring by way of reduction will not affect the ordinary operations of the Company or its ability to honour its commitments or to pay its debts in the ordinary course of business and.

5. The Counsel for the Applicant submits that the BSE Ltd has given its approval to the Applicant Company vide their letter No.DCS/AMAL/AC/24 (f)/301/2015-16 dated 11th February, 2016 and thereafter the Postal Ballot Notice dated 21st December, 2016 along with the Explanatory Statement was sent to the Equity Shareholders of the Applicant Company in due compliance with Provision of Companies Act 2013 for seeking approval of the shareholders to the scheme of reduction of Capital.

6. The Counsel for the Applicant submits that accordingly the Equity shareholders of the Applicant Company has passed the Special Resolution dated 3rd February, 2017 approving the reduction of the Equity Share capital from Rs.3,44,00,000/- divided into 34,40,000 Equity Shares of Rs. 10/- (Rupees Ten only) each fully paid up to Rs.17,20,000/- divided into 1,72,000 Equity Shares of Rs. 10/- (Rupees Ten only) each and that such reduction is to be effected by canceling 32,68,000 Equity Shares of Rs.10/- each amounting to Rs.3,26,80,000/- which is lost or un-represented by the available assets i.e. Debit balance in Profit and Loss Account.
7. The Counsel appearing on behalf of the Applicant further submits that the Applicant Company has complied with all the statutory requirement as per the direction of the Tribunal and they have filed the necessary Affidavit in the Tribunal. Moreover, the Applicant Company also undertakes to comply with statutory requirements, if any, under the Companies Act 2013 and Rules made thereunder, as may be applicable.
8. Since, the requisite statutory procedure has been fulfilled; the Company Application has been made absolute in terms of the prayer clauses (a) & (c) of the Application.
9. That the minute set forth in the schedule hereto be and is hereby approved.
10. All concerned regulatory authority to act on the certified copy of the order and form of minutes forming part of the Application, duly

certified by the Deputy Director, National Company Law Tribunal.
The Applicant Company undertakes to file with the registrar within 30 days from the date of the receipt of the order.

11. Applicant to publish notices about registration of the order and minutes of reduction by the Registrar of Companies, Mumbai, Maharashtra, in two Newspapers namely 'Free Press Journal' in English and 'Navshakti' in Marathi, both having circulation in Mumbai, within 30 days of registration.

SCHEDULE

Form of Minutes

The Capital of Fischer Chemic Limited is henceforth Rs.17,20,000/- (Rupees Seventeen Lacs Twenty Thousand only) divided into 1,72,000 Equity Shares of Rs.10/- each fully paid up reduced from Rs.3,44,00,000/- (Rupees Three Crore Forty Four Lacs only) divided into 34,40,000 Equity Shares of Rs.10/- each effected by cancelling 32,68,000 Equity Shares of Rs. 10/- each amounting to Rs.3,26,80,000/-. At the date of this registration of this minute 1,72,000 Equity shares numbered 01 to 1,72,000 have been issued and are deemed to be fully paid up.

sd/-

V. Nallasenapathy
Member (Technical)

sd/-

B.S.V. Prakash Kumar
Member (Judicial)