

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI**

I.A. No. 73 of 2016 in C.P. 10 of 2016

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

In the matter of Companies Act, 2013 under Section 213, 241, 242 r/w. Chapter XVI.

AND

Between:

Ricoh India Limited

... Applicant/ Respondent No.1

In the matter of

Ricoh Company Limited

.... 1st Respondent/Petitioner

Versus

1. Rioch India Limited
2. Mr. Manoj Kumar
3. Mr. Arvind Singhal
4. Mr. Anil Saini
5. Ms. Smriti Pandey R-2 to 5 Contesting Respondents.
6. Regional Director
7. Secretary, (Ministry of Corporate Affairs)
8. Bombay Stock Exchange
9. Securities and Exchange Board of India
10. Registrar of Companies (Mumbai)Proforma Respondents

Present on behalf of the parties:

1. Mr. Licu Mukhopadhyaya, Sr. Counsel, Mr. Sulabh Rewari, Ms. Sita Kapadia, Mr. Ashish Kamat, Mr. Sharad Bansal, Mr. Prateek Pai, Ms. Nidhi, Advocates for the R-1.
2. None for the petitioner side
3. Mr. Ajay Khaire, Advocate for R-8.
4. Mr. Anubhav Ghosh, Advocate for R-9.

ORDER

(Heard: 29.09.2016)

(Pronounced on 30.09.2016)

1. R1 Company filed IA 73/2016 for clarification on the order passed by this Bench on 24. 08-2016 for BSE wrote a letter dated 21.09.2016 that there being no order to reduce the shareholding ignoring the procedure set out u/s 100-104 of

1956 Act, the Company will be required to comply with the procedure set out u/s 100-104 of 1956 Act.

2. To which, the petitioner has sought clarification that the company need not follow the procedure laid u/s 100-104 of 1956 Act, when this Bench passed an order u/s 242(2) (C) of the Companies Act 2013/402 (c) of the Companies Act 1956 for cancellation of the shares of the company which ultimately led to reduction of share capital in the Company.

3. The company counsel, to drive this point, relied upon **Cosmosteels Pvt.Ltd. v. Jairam Das Gupta (1978) SCC page no.215 (FB)** to say that when cancellation of shares is ordered by invoking Section 402 of the Companies Act 1956, basing on para 6 & 8 of the citation, the procedure set out u/s 100-104 of the Act 1956 need not be followed.

4. On hearing the submissions of the counsel, this Bench having passed an order u/s 242 (2) (c) of the Companies Act 2013 for cancellation of these shares, it is hereby clarified that it need not be said separately that the procedure set out u/s 100-104 is not applicable to this case.

5. On perusal of the citation supra, it is understood that the Apex Court made it clear that the procedure u/s 100 -104 and the procedure u/s 402 (para materia to Section 242 of the Act 2013) are distinct and separate, therefore, when an order is passed under 242 of the Act 2013, Company does not require to follow the procedure laid u/s 100 -104 of the Companies Act 1956.

6. In view of the same, this Bench hereby holds that the order dated 24-8-2016 for reduction of the share capital of the company u/s 242 is suffice to say that company does not require to follow the procedure laid u/s 100 -104 of the Companies Act 1956.

Accordingly, this IA 73/2016 is disposed of.

sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)

sd/-

V. NALLASENAPATHY
Member (Technical)