

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH, AT MUMBAI

COMPANY PETITION NO. 16/2(41)/NCLT/MB/MAH/2016

Quorum : Shri M.K. Shrawat, Member (Judicial)

Order Under Section 2(41) of the Companies Act, 2013.

In the matter of SANNER OF INDIA PRIVATE LIMITED having its Registered Office at S NO 100/5, AMBEGAON KHURD, PUNE MH 411 046.

Mr. Omkar V. Deostale, Company Secretary in Practice, Authorised Representative Of Company, for the Applicant.

ORDER

Reserved on : 06/01/2017
Pronounced on : 10/01/2017

1. This Petition has been filed on 12.08.2016 under the provisions of Section 2(41) of the Companies Act, 2013 for the reason to enable the Petitioner to consolidate the accounts with the Holding Company.
2. From the side of the Petitioner Mr. Omkar V. Deostale, Company Secretary in Practice appeared and stated certain basic facts that the Petitioner Company is a subsidiary of Sanner GmbH, a company registered in Germany which holds 99.99% of the paid up equity share capital of the Petitioner Company. The Holding Company, incorporated outside India, is having accounting period from January to December. However, the Petitioner Company is following the financial year from April to March. It has further been clarified by the Learned Representative that the first accounting period of the Petitioner Company shall be for a limited period of 7th May, 2016 to 31st December, 2016, if the change in the accounting period is approved by the NCLT.
3. In support of the above claim a copy of the Resolution passed by the Board of Directors of the Petitioner Company held on 30th May, 2016 is placed on record wherein it was resolved that, if approved by NCLT, following the provisions of Section 2(41) of the Companies Act, the Petitioner/Company shall consolidate its Statement of Accounts with the Holding Company by following accounting period from January to December. The compilation also consists the Statement of accounts of the Holding Company to demonstrate that the Calendar Year is followed as the accounting period.

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. Keeping in mind the above requirement of law, a compliance has been made by the Petitioner under consideration, seeking approval of NCLT for adopting an accounting year other than the Financial Year. This departure from the main rule is permissible under one circumstance. It is prescribed that in a situation when either a holding or a subsidiary Company is incorporated outside India and that Foreign Company is following a different accounting year, other than the Financial Year, then for consolidation of accounts with the accounts outside India, an approval from the Tribunal is a legal requirement and, if satisfied, pass an Order to this effect. Hence it is hereby held as under :-

ORDER

The Petitioner Company being a subsidiary of Foreign Holding Company which is maintaining its account on Calendar Year required to consolidate the accounts of the Petitioner Company; hence it is hereby ordered by exercising the powers enshrined u/s 2(41) of the Companies Act that the accounting period shall be aligned by adopting Calendar Year (1st January to 31st December) as the accounting period.

6. The Company Petition is allowed. Copy of the Order to the Petitioner for requisite compliance. No order as to cost.

Sd/-

Shri M.K. Shrawat.
Member (Judicial)

Date : 10th January 2017.