

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
CP NO. 2/2016**

***PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

**IN THE MATTER OF THE COMPANIES ACT, 2013
SECTION 2(41) OF THE COMPANIES ACT, 2013**

AND

**IN THE MATTER OF M/s SPIRENT COMMUNICATIONS (INDIA)
PRIVATE LIMITED**

1. M/S Spirent Communications (India) Private Limited
9th Floor, Umiya Business Bay Tower-1
Cessna Business Park,
Marathahalli-Sarjapur Ring Road,
Kadubeesanahalli,
Bangalore-560037.

- **APPLICANT**

PARTIES PRESENTED: Mr. Sudhir V. Hulyalkar, # 16/8, Ground Floor, 2nd
Cross, Gupta Layout, South End Road,
Basavanaagudi, Bangalore-560004 Practicing
Company Secretary and Authorised representative
for the Applicant.

Heard on 05/09/2016, 09/09/2016 and 19/09/2016.

ORDER

This petition is filed by the Applicant Company under section 2(41) of the Companies Act, 2013 with a prayer to permit the company which is a subsidiary of body corporate registered outside India to follow calendar year (1st January to 31st December) as its financial year for the purpose of consolidation of its accounts with its holding company.

The averments in the application are briefly stated hereunder:-

The Applicant Company is a Private Limited Company, incorporated under the Companies Act, 1956 on 26/07/2004 under the name and style of "SPIRENT COMMUNICATIONS (INDIA) PRIVATE LIMITED" vide Corporate Identity No. U64202KA2004PTC034400.

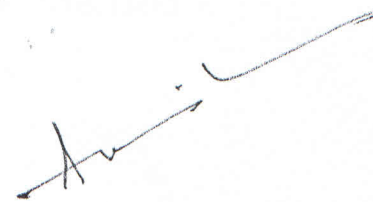



The Registered Office of the company is situated at 9th Floor, Umiya Business Bay Tower-1, Cessna Business Park, Marathahalli-Sarjapur Ring Road, Kadubeesanahalli, Bangalore.

The main object of the Applicant Company is carry on in India and elsewhere all or any business of developing domestic or international markets for telecom, networking and communication products and services, hardware and software IT products; to promote, encourage, establish, develop specialized computer software and hardware equipments; to provide management and strategic consulting, information and communication technology etc., Detailed of the main objects are mentioned in the Memorandum of Association attached with the Petition.

The Applicant Company is a subsidiary of SPIRENT HOLDINGS LIMITED, a body corporate incorporated under the laws of United Kingdom, which follows financial year from 1st January to 31st December and Indian subsidiary Company i.e., Petitioner Company is required to follow the same period of financial year to align its accounts for consolidation by the holding company.

The Board of Directors of the Applicant Company has passed a resolution that the existing financial year from 1st January to 31st December be continued, so that it will enable the Holding Company viz., Spirent Holdings Limited to consolidate its accounts. The Holding Company of the Applicant Company Spirent Holdings Limited, Northwood Park, Gatwick Road, Crawley, West Sussex RH10 9XN, United Kingdom has also passed resolution in its Board Meeting held on 14/03/2016 has decided that the Applicant Company ~~be~~ should follow financial year from 1st January to 31st December and they have given the consent for the same. Applicant Company have submitted Balance sheet and profit and loss account of the Spirent Holdings Limited ending 31st December 2014.

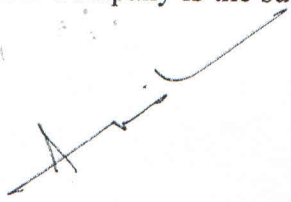



The Practicing Company Secretary of the Applicant Company has given an Affidavit dated 08/09/2016 stating that the Ultimate Holding Company Spirent Communications Plc has to consolidate the accounts. The Practicing Company Secretary has also submitted the balance sheet of 31st December 2015 of the Ultimate Holding Company Spirent Communications Plc. The Practicing Company Secretary relies on the provisions of section 2 (41) of the Companies Act, 2013 which permits the subsidiary company to follow each financial year to align with the financial year of holding company for purpose of consolidation of accounts. As per Section 2 (41) of the Companies Act, 2013 reads as under:

“financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 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.”

We have seen the documents along with petition and also the report of the Registrar of Companies, Karnataka, Bengaluru who recommended for change of financial year as requested by the Petitioner Company. Certified copies of latest Balance sheet of the Holding Company and ultimate Holding Company are enclosed with the Petition. We have seen the Board Resolution of the Petitioner Company and also the consent letter of Holding Company. Affidavit of the Director of the Petitioner Company discloses that Applicant Company is the subsidiary of



Spirent Holdings Limited and the ultimate Holding Company Spirent Communications Plc. are adopted the same calendar year as financial year. So there are grounds to permit the Applicant Company to adopt calendar year as financial year of the Holding Company for the purpose of consolidation of accounts.

Accordingly, the following order is passed under section 420 read with section 2 (41) of the Companies Act, 2013:-

The Applicant Company "SPIRENT COMMUNICATIONS (INDIA) PRIVATE LIMITED" is permitted to adopt its financial year as 1st January to 31st December to match with the financial year of the Holding Company.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 30th DAY OF SEPTEMBER, 2016