

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
CHENNAI

Arguments heard on 22.12.2016

Orders passed on 19.01.2017

TCA No. 38 of 2016
(C.A.No.90 of 2016)

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

Applicant : M/s NCH India Pvt Ltd. represented by PCS Ms A.Sathyadevi

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ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

CH MOHD SHARIEF TARIQ
MEMBER(JUDICIAL)

ORDER

ANANTHA PADMANABHA SWAMY, MEMBER(JUDICIAL) :- (ORAL)

1. Under adjudication is an application that came to be filed under Section 2(41) of the Companies Act, 2013, before the CLB as C.A. 90 of 2016 which stood transferred to NCLT and renumbered as T.C.A. 38 of 2016.

2. The applicant company that bears the title NCH India Private Ltd. registered under CIN : 74999TN2007PTC077685 is having registered office at No.2C/8, SIDCO Developed Plot, South Phase, Third Sector, Third Street, Ambattur Industrial Estate, Chennai-600058. The main business carried on by the company is manufacture, export/import and marketing and selling of specialty maintenance chemicals and lubricant products. The authorised capital of the company is Rs.7 crores having equity shares of Rs.10/- each. The paid up capital is Rs.5,53,24,530/- having equity shares of Rs.10/- each. The holding company is NCH Corporation, a Delaware corporation having Foreign Registration No.0625810 which is following the financial year commencing from 1st May and ending on 30th April of the succeeding year.

3. The applicant is a private limited company with two subscribers and members till date who are foreign shareholders having 100 per cent shares viz. NCH INCORPORATION, 2727 Chemsearch, Irwing, Texas holding 99.99% of the paid up share capital and one share held by NCH Global One Inc, 2727, Chemsearch, Irwing, Texas, USA in NCH India Private Ltd., Chennai [subsidiary company]. The shareholders have also incorporated companies in other countries in the name and style of NCH and having financial year commencing from 1st May and ending on 30th April of next year. Based on this, the applicant company has decided to follow the same financial year. In this respect, the Board resolution passed by the petitioner company, certified copy of the last balance sheet of holding/subsidiary companies incorporated outside India with whom the petitioner company is aligning its financial year is also placed on record which has been certified by Notary Public of the said country. The Board resolution of the holding/subsidiary companies incorporated outside India duly notarised is also placed on record along with Memorandum/vakalatnama for appearance by the representatives. The necessary fee is also said to have been paid in favour of Pay and Accounts Officers, Ministry of Corporate Affairs payable at Chennai.

3. The relief sought for in the application is that the company may be allowed to adopt the financial year commencing from 1st May and ending on 30th April of the succeeding year, as is done by its holding companies.

4. The Registrar of Companies, Tamil Nadu, Chennai, vide its report in F.No.77685/S 2(41)/RCO/Chenn/2016, made remarks that if the Tribunal is satisfied the company may be permitted to follow any financial year.

5. From the above said documents it appears that the holding/subsidiary companies incorporated outside India are following the financial year from 1st May to 30th April next year. Therefore, this Bench is satisfied that the petitioner is essentially required to follow the

financial year starting from 1st May and ending on 30th April next year for the purpose of consolidation of its accounts outside India. Accordingly, the application of the Company is allowed by exercising the powers conferred under the proviso to Section 2(41) of the Companies Act, 2013 and permitted to follow the financial year starting from 1st May and ending on 30th April next year. A copy of this order shall be sent by the Applicant to the Registrar of Companies concerned as per the procedure established, for information and record.


(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)


(ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)