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HIGH COURT OF CHHATTISGARH, BILASPUR

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 21 OF 2012

IN THE MATTER OF COMPANIES ACT, 1956

AND

IN THE MATTER OF SECTIONS 100 TO 105 OF THE COMPANIES ACT, 1956

AND

IN THE MATTER OF REDUCTION OF SHARE CAPITAL OF CHHATTISGARH INDUSTRIES LIMITED

Chhattisgarh Industries Limited, a Company incorporated under the Companies Act, 1956 and having its registered office at village Chaple, Tahsil Kharsia, Raigarh, Chhattisgarh

….. Petitioner Company

Mr. Ashish Surana, Advocate, for the petitioner Company
Mr. N. K. Vyas, Assistant Solicitor General

HON'BLE SHRI JUSTICE GOUTAM BHADURI

ORDER ON BOARD

29/09/2015

1. Heard Mr. Ashish Surana, learned counsel for the petitioner as also Mr. N.K. Vyas, learned Assistant Solicitor General for the Union of India.

2. This is a petition for reduction of capital of the Applicant Company. No Objector has come before the Court to oppose the Scheme, nor any party has contravened any averments made in the petition.

3. The sanction of the Court has been sought for reduction of capital of the Chhattisgarh Industries Limited, the petitioner Company, as approved in a special resolution passed in the Annual General Meeting of the Members of the Company held on 1st August, 2011 at its registered office at Village Chaple, Tahsil Kharsia, Raigarh, Chhattisgarh. The resolution was passed by the shareholders of the petitioner Company. In the said meeting it was resolved that reduction of capital be adjusted against the accumulated losses of the Company to the tune of Rs.59,915,200/- (Rupees Five Crores Ninety Nine Lacs Fifteen Thousand and Two Hundred Only) as per the profit and loss account for the year ended on March 31, 2011.

4. Learned counsel for the petitioner would submit that the circumstances which have necessitated the proposed reduction of capital would be evident from the financial statements as has been stated in Para 8 of the petition. It would show that the total accumulated loss as on 31st March, 2011 was of Rs.66,815,764/- (Six Crores Sixty Eight Lakhs Fifteen Thousand Seven Hundred Sixty Four). Therefore, the Board of Directors of the applicant Company in order to write off accumulated losses as depicted in the balance sheet of the Company have decided to reduce the capital. Meaning thereby the accumulated loss would be adjusted from the investment made by the share holders. It is further submitted that the business of the petitioner Company has consistently incurred losses year after year. Consequently, it was felt expedient that the balance sheet of the Company needs to be restructured under the provisions of the Companies Act by reducing the paid-up share capital against the amount standing to the debit of the Profit and Loss Account as per the Audited Accounts as on 31st March, 2011.

5. It is further submitted that the amount of Rs.59,915,200/- (Rupees Five

Crore Ninety Nine Lacs Fifteen Thousand and Two Hundred Only) representing 80% of the paid-up capital, be reduced by the applicant Company against the amount standing to the debit of Profit and Loss Account, as on 31st March, 2011. It is also stated that restructuring by way of reduction of capital is in its best interests, which would benefit the Applicant Company to further survive. It is further contended that the proposed financial restructuring is expected to enhance its shareholders' value and to depict the representing assets value which in turn will enable the Company to approach the financial institution in order to develop the business besides helping the applicant Company to come out of the financial constraints and to boost the true value of the shareholders' investment.

6. It is further submitted that the proposed reduction will not cause any prejudice to the creditors of the Petitioner Company since it does not involve any financial outlay/outgo on the part of the Petitioner Company and that the reduction of capital does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital. It is further submitted that the assets of the Company are also not liquidated for reduction of the capital. Therefore, it is further submitted that the procedure under the provisions of Section 101(2) of the Act, are not applicable and the meeting of the creditors would not be necessary as no prejudice would be caused to the creditors inviting objection. He further submits that "No objection Letters" given by the unsecured creditors of the Applicant Company for the Scheme of capital reduction of Company are already on record as per the balance sheet placed with the petition. The unsecured creditors were Simplex Coke Private Limited, Shoparana Brothers Private Limited and Elan Capital Advisors Private Limited and all they have agreed to the scheme of reduction of capital of applicant

Company M/s. Chhattisgarh Industries Limited.

7. Thus, a perusal of the documents show that "no objection/consent letters" have been received from the unsecured creditors which are placed on record vide Ex. K. Since no objector has come forward to oppose the proposed reduction and as the requisite statutory procedure has been fulfilled, the petition is made absolute in terms of the "Form of the Minutes proposed to be registered under Section 103(1)(b)" marked as Ex.G which reads as under:

> "The subscribed, issued and paid up equity share capital of the Company, by virtue of special resolution of the Company and by virtue of the sanction granted by this Court be reducted from Rs.74,894,000 (Rupees Seven Crores Forty Eight Lacs Ninety Four Thousand only) divided into 74,89,400 (Seventy Four Lacs Eight Nine Thousand Four Hundred) equity shares of Rs.10/- each to Rs.14,978,800/- (Rupees One Crore Forty Nine Lacs Seventy Eight Thousand and Eight Hundred only) divided into 74,89,400 (Seventy Four Lacs Eighty Nine Thousand Four Hundred) equity shares of Rs.2/- each and that such reduction be effected by cancelling to the extent of Rs.8 (eight) per equity share i.e., Rs.59,915,200/- (Rupees Five Crores Ninety Nine Lacs Fifteen Thousand and Two Hundred only) in respect of 74,89,400 (Seventy Four Lacs Eighty Nine Thousand Four Hundred) fully paid equity shares of Rs.10/- each and by reducing the nominal amount of the shares in the Company's paid up equity capital from Rs.10 each to Rs.2 per equity share. And that simultaneously with such reduction becoming effective the resulting 74,89,400 (Seventy Four Lacs Eighty Nine Thousand Four Hundred) fully paid up Equity Share of Rs.2 each be consolidated into 14,97,880 (Fourteen Lacs Ninety Seven Thousand Eight Hundred Eighty) of Rs.10 each fully paid up by issue of 1 (one) equity share of Rs. 10 (Ten) each against 5 (Five) equity shares of Rs.2 (Two) each so reduced as aforesaid. Further that said reduction of the capital be adjusted against the accumulated losses of the

Company to the tune of Rs.59,915,200/- (Rupees Five Crores Ninety Nine Lacs Fifteen Thousand and Two Hundred only) as per the profit and loss account for the year ended on March 31, 2011 and effective from March 31, 2010"

8. All the concerned parties to act on ordinary copy of order and the Form of Minutes annexed as Exhibit-G to the petition duly authenticated by the Registrar of Companies.

9. The petitioner to publish notices in the newspaper having wide circulation in State of Chhattisgarh either in English or Hindi about the Order and reduction by the concerned Registrar of Companies, Chhattisgarh.

Sd/-
GOUTAM BHADURI
JUDGE

Rao