IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY SCHEME PETITION NO. 146 OF 2015.

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 177 OF 2015.

In the matter of the Companies Act 1 of 1956);

AND

In the matter of Sections 100 to 104 of the Companies Act, 1956;

AND

In the matter of Reduction of Share Capital of AVI Photochem Limited

AVI PHOTOCHEM LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at 110, Manish Industrial Estate No.4, Navghar, Vasai (East), Thane-401210)))) ...Petitioner Company.

Called For Hearing

Mr. Rajesh Shah i/b M/s. Rajesh Shah & Co., Advocate for the Petitioner.

CORAM: S. J. Kathawalla, J.

DATE: 27th March, 2015

1. Heard counsel for the Petitioner. No objector has come before the Court to oppose the Reduction and nor any party has controverted any averments made in the Petition.

2. The sanction of the Court has been sought for the Reduction of Share Capital of AVI PHOTOCHEM LIMITED, the Petitioner Company, under Sections 100 to 104 of the Companies Act, 1956, as approved in the Special Resolution passed by its Equity Shareholders at the Extra Ordinary General Meeting held on 29th day of December, 2014.

3. Learned Counsel for the Petitioner states that the reasons for reduction of Share Capital has been stated in paragraph 7 of the Petition interalia stating that the Company has been incurring losses for past couple of years and due to business loss and inadequate working capital facilities the present business of the company suffered and that the company is therefore unable to raise any finance either from the capital markets or financial institutions whether in the form of equity or debt, to undertake business activities on a larger scale and that the proposed Scheme would enable the company to correct its existing capital by reduction and to show the actual financial position in its balance sheet to depict the representing Assets value which in turn will enable it to approach for financial assistances in order to develop its business value

4. Learned Counsel for the Petitioner submits that the Article 38 of the Articles of Association of the Petitioner Company empowers the Petitioner Company to reduce its share capital and Petitioner Company having passed

Special Resolution in its Extraordinary General Meeting of its Equity Shareholders held on 29th December, 2014 being Exhibit 'E' to the Company Scheme for Petition, approving that the Paid up Equity Share Capital of the Company be reduced from Rs.3,48,00,760/- divided into 34,80,076 Equity Shares of Rs.10/- each fully paid-up to Rs. 1,04,40,220/- divided into 10,44,022 equity shares of Rs.10/- each and that such reduction of Rs. 2,43,60,540/- (Rupees Two Crores Forty Three Lacs Sixty Thousand Five Hundred Forty Only) be effected by cancelling 24,36,054 Equity Shares in Equity Paid up Share Capital to the extent of 70 equity shares for every 100 equity shares held which has been lost or is represented by accumulated losses of Rs.2,54,01,502/- as per the Audited accounts as on 31st March, 2014 AND in view of the averment made in Paragraph 14 and 16 of the Petition interalia stating that there are no secured creditors of the Petition Company and the proposed reduction in the Share Capital Account does not involve any financial outlay/outgo on the part of the Petitioner Company and is only in the nature of a book entry and that such reduction will also not cause any prejudice to the Creditors of the Petitioner Company and that the Petitioner states that the reduction of the Share Capital Account 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 nor is any call being waived and that there are no Creditors of the Petitioner Company are also in no way affected by the proposed reduction of the Share Capital Account as there is no reduction in the amount payable to any of the Creditors, no compromise or arrangement is contemplated with the Creditors and also there is no reduction in the security, which the creditors may have in the Petitioner Company and that the proposed adjustment would not in any way adversely affect the ordinary operations of the Petitioner Company or the ability of the Petitioner Company to honour its commitments or to pay its debts in the ordinary course of business. In view of thereof vide order dated 27th February, 2015 passed in Company Summons for Direction No. 177 of 2015, the procedure prescribed under Section 101(2) of the Companies Act, 1956 was dispensed with.

5. Counsel appearing on behalf of the Petitioner states that they have complied with all the statutory requirements as per the directions of this Court and they have filed necessary affidavit of compliance in the Court. Moreover, Petitioner Company undertakes to comply with statutory requirements, if any, as required under the Companies Act, 1956/ 2013 and the Rules made thereunder whichever is applicable. The Undertaking is accepted.

6. None of the parties concerned have come forward to oppose the proposed reduction of Share Capital. Since the requisite statutory procedure has been fulfilled, the Petition is made absolute in terms of prayer clauses (a) and (b).

7. Petitioner is directed to file a copy of this order alongwith a copy of the Form of Minutes with the concerned Registrar of Companies, electronically, along with E-Form/ INC-28 in addition to physical copy as per the relevant provisions of the Act.

8. All concerned regulatory authorities to act on a copy of this order and the Form of Minutes annexed as Exhibit- 'I' to the Petition, duly authenticated by the Company Registrar, High Court, Bombay.

9. Filing and issuance of the drawn up order is dispensed with.

10. Petitioner to publish notices of registration of the Order and minutes of reduction with the concerned Registrar of Companies in the two local newspapers viz. “Free Press Journal”, in English language and translation thereof in “Navshakti”, in Marathi language, both having circulation in Mumbai.

(S. J. Kathawalla, J.)