IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCHEME PETITION NO 115 OF 2015
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO 140 OF 2015

In the matter of Companies Act, 1956 or any other applicable provisions of the Companies Act, 2013;

And

In the matter of Sections 100 to 103 of the Companies Act, 1956 or any other applicable provisions of the Companies Act, 2013;

And

In the matter of Reduction of Equity Share Capital of Perlin Cosmeceuticals Private Limited.

Perlin Cosmeceuticals Private Limited, a company incorporated under the provisions of Companies Act, 1956, having its registered office at 1/A/G-1, Dheeraj Heritage Residency (Unity) CHS LTD, Linking Road Ext., Opp Shastri Nagar, Santacruz (W) Mumbai - 400054, Maharashtra.) …. Petitioner Company

Called for Hearing

Mr. Hemant Sethi i/b Hemant Sethi & Co. Advocates for Petitioner Company

CORAM: S.J. KATHAWALLA, J

DATE: 13TH MARCH 2015

P.C.:

1. Heard the learned counsel for the Petitioner. No objector has come before the court to oppose the Scheme for Reduction of share Capital and nor any party has contravened any averments made in the Petition.

2. The Counsel for the Petitioner Company submits that Article 55 of the Articles of Association of the Petitioner Company empowers the Petitioner Company to reduce its Share Capital by passing a Special Resolution in any manner for the time being authorised by law.

3. The Counsel for the Petitioner states that the reasons for Reduction as mentioned in Explanatory Statement along with the notice annexed as Exhibit F2 to the Petition is that the Petitioner Company has liquidity in excess of current & foreseeable requirements. The surplus funds over the requirement of the business are currently held by the Company with no significant return on the fund. The Company has no major expansion exercise in the near future including business or asset acquisition, significant investment in expansion of business. Under the given circumstances, we understand that the Company is contemplating options to rationalise its capital structure by way of reducing its outstanding equity shares by way of Capital reduction. Rationalization of the capital structure would have dual advantage of reducing the number of outstanding equity shares and amount of capital employed thereby maximising overall shareholder value by returning

the surplus cash capital to the shareholders and proper utilisation of idle cash resources and that the proposed reduction of capital is likely to have a positive impact on the key financial ratios such as return on capital employed, return on net worth, etc. Further, the reduction of capital does not affect the Company's ability in future to increase its share capital and/or raise funds by way of borrowings.

4. The Counsel for the Petitioner further submits that the Petitioner having passed a Special Resolution with requisite majority at its Extraordinary General Meeting held on 22^{nd} day of January 2015, whereby it is accorded to reduce up to a maximum of 5,72,520 (Five Lacs Seventy Two Thousand Five Hundred Twenty) Equity Shares of Rs. 10/- each out of the existing paid up equity share capital of the Company of Rs. 3,11,02,700/- (Rupees Three Crores Eleven Lacs Two Thousand Seven Hundred) divided into 31,10,270 (Thirty One Lacs Ten Thousand Two Hundred Seventy) Equity Shares of Rs. 10/- each fully paid up, and that such reduction is effected by returning capital to the equity shareholders up to an aggregate amount not exceeding Rs. 15,00,00,240/- (Rupees Fifteen Crores Two Hundred Forty Only) for 5,72,520 Equity Shares of Rs. 10/- each so cancelled and extinguished, and the shareholders who are entitled to such distribution shall be those whose names appear in the register of members of the Company on the date on which the said reduction is made effective.

5. The Counsel for Petitioner further submits that in view of the averments made in paragraph fourteen to Sixteen of the Company Scheme Petition, inter-alia stating that there are two Secured Creditors of the Petitioner Company who have given

their Consent, which are annexed as Exhibit G1 and G2 to the Petition and which are under office objection as the same is signed by Authorised signatory of the said Secured Creditors. However the rights of the said Secured Creditors are not affected as they are secured by the Pledge of Mutual Fund Units and that there are One Hundred and Nineteen Unsecured Creditors in the Petitioner Company and that Such unsecured creditors shall be paid in the normal course of business and their rights shall not be adversely affected by the proposed reduction. There is no compromise or arrangement with any of the Creditors. Further there is no diminution of liability in respect of unpaid share capital in the Petitioner Company. The Petitioner Company has sufficient assets, even after the reduction to discharge the liabilities as and when they are due. In view thereof, the procedure prescribed under Section 101(2) of the Companies Act was dispensed with in pursuance of order dated 20th February 2015 passed in Company Summons for Direction No. 140 of 2015.

6. The Counsel for the Petitioner states that although there is payment to shareholders of paid up Equity share capital there is no diminution of liability in respect of unpaid share capital.

7. Counsel appearing on behalf of the Petitioner Company states that the Petitioner has 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 also undertakes to comply with statutory requirements, if any, as required under the Companies Act, 1956 and/or Companies Act, 2013 and the Rules made thereunder, as may be applicable.

8. Since the requisite statutory procedure has been fulfilled, the Company Scheme Petition is made absolute in terms of prayer clauses (a) and (b).

9. Petitioner to publish notices about registration of Order and minutes of reduction by the concerned Registrar of Companies, Maharashtra in the same newspapers i.e., ‘Free Press Journal’, in English language and translation thereof in ‘Navshakti ’, in Marathi language both having circulation in Mumbai and also in the Maharashtra Government Gazette.

10. Filing and issue of drawn up order is dispensed with.

11. All concerned regulatory authorities to act on authenticated copy of order and the form of minutes annexed as ‘Exhibit F5’ to the Petition, duly authenticated by the Company Registrar, High Court, Bombay.

(S.J. KATHAWALLA, J)