IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY SCEHEME PETITION NO. 854 OF 2015

In the matter of the Companies Act, 1956 (1 of 1956) (or re-enactment thereof upon effectiveness of Companies Act, 2013);

AND

In the matter of Sections 78 (corresponding provisions u/s. 52 of the Companies Act, 2013) read with Sections 100 to 104 of the Companies Act, 1956

AND

In the matter of reduction of equity share capital and 7% non-convertible redeemable preference share capital of India Debt Management Private Limited

India Debt Management Private Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at Level 9, Platina, C-59,G Block, Bandra Kurla Complex, Mumbai – 400 051) … Petitioner Company

Called for Hearing

Mr. Virag Tulzapurkar, Senior counsel with Mr. Hemant Sethi i/b. Hemant Sethi & Co., Advocates for the Petitioner

CORAM: K.R. SHRIRAM, J

DATE: 20TH NOVEMBER 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 learned Counsel for the Petitioner submits that Petitioner having passed Special Resolution with requisite majority at its Extra Ordinary General Meeting held on 29th September 2015 passed a special resolution pursuant to Sections 100-104 of the Companies Act, 1956, Section 52 of Companies Act, 2013, Rules 46 to 65 of the Company (Court) Rules, 1959, and including coming into force of the corresponding provisions of Companies Act, 2013 and/or any modification(s) or re-enactment thereof and other applicable provisions, of the Companies Act, 1956, by virtue of which the issued, subscribed and paid-up equity share capital of the Petitioner Company shall be reduced not exceeding 22,83,118/- (Twenty Two Lakhs Eighty Three Thousands One Hundred Eighteen Only) Equity Shares of Rs. 10 each totaling to share capital of Rs. 2,28,31,180/- (Rupees Two Cores Twenty Eight Lakhs Thirty One Thousands One Hundreds Eighty Only), comprising of 8,71,970/- (Eight Lakhs Seventy One Thousands Nine Hundreds Seventy Only) held by Blue Brinando Limited, 30 (Thirty Only) shares held by Mr. Nelum Gidwani, 10 (Ten

Only) shares held by Mrs. Avan Gidwani, 10 (Ten Only) shares held by Mr. Rahul Gidwani and balance equity shares held by Mauritius Debt Management Limited, representing 87.37% of the existing issued, subscribed and paid up equity share capital of the Company of Rs. 2,61,32,880 (Rupees Two Crore Sixty One Lakhs Thirty Two Thousands Eight Hundreds and Eighty Only) divided into 26,13,288 (Twenty Six Lakhs Thirteen Thousands Two Hundreds and Eighty Eight Only) Equity Shares of Rs. 10 each fully paid up, and that such reduction is effected by paying against shares cancelled a sum of Rs 850/- (Rupees Eight Hundred Fifty Only) per equity share of Rs 10 each. In the aforesaid Extra Ordinary General Meeting, shareholders also passed a special resolution for utilization of securities premium account not exceeding Rs 191,78,19,120/- (Rupees One Hundred Ninety One Crores Seventy Eight Lakhs Nineteen Thousands One Hundreds Twenty Only) for the pay-out against Equity Shares being cancelled.

3. The rational for the Scheme is that the Petitioner Company and its shareholders have been deliberating their India business strategy over the past few months. While the Petitioner Company has been evaluating new investment opportunities in the last few years, it has not found suitable investment opportunities with the desired risk/reward profile to redeploy its cash reserves. The Petitioner Company's investment criteria has also evolved based on past

investment experiences, especially the setbacks the Petitioner Company faced because of (a) the weak legal enforcement rights of an NBFC (b) the slow pace of progress in the legal actions it has initiated to recover its dues, and (c) the limitations of the Board for Industrial & Financial Reconstruction (BIFR) forum with respect to NBFCs like the Petitioner Company. The Petitioner Company's accumulated losses are a result of some of these challenges in the distressed assets business in India. Given the above, the Petitioner Company has recalibrated its investment criteria in the last few years, but has not been able to identify any suitable investment opportunities. As a result, the Petitioner Company has been holding substantial surplus cash in the last few years and the Board of Directors have therefore been evaluating optimal solutions to address the issue of surplus cash and return the same to shareholders. Following professional advice, the Board of Directors of the Petitioner Company has evaluated various options and come to a conclusion that it is would be prudent to restructure and re-align the balance sheet and the share capital of the Petitioner Company by repaying the capital in excess of the needs of the Petitioner Company to shareholders through a capital reduction process. The surplus cash balances after providing for pending tax litigations and operating expenses will be returned to the shareholders through this process. As far as pending tax litigation is concerned, as disclosed in the financial statements of the Petitioner, the tax amount under litigation has been fully provided for, and even after such provision and post the capital reduction, the cash and bank balance of the Petitioner will be around Rs. 35 Crores and net worth of the Petitioner Company will be positive to the extent of Rs. 41 Crores Some of the shareholders have also expressed their desire in the past to exit the company completely, and the Board of Directors has taken into account the above objective also in the proposed capital reduction.

4. The Counsel for the Petitioner further states that the Petitioner Company has at its Extra Ordinary General Meeting held on 29th September 2015 passed a special resolution pursuant to Sections 100-104 of the Companies Act, 1956, Section 52 of Companies Act, 2013, Rules 46 to 65 of the Company (Court) Rules, 1959, and including coming into force of the corresponding provisions of Companies Act, 2013 and/or any modification(s) or re-enactment thereof and other applicable provisions, of the Companies Act, 1956 by virtue of which issued, subscribed and paid-up 7% non-convertible redeemable preference share capital of the Petitioner Company shall reduce all 20,93,501 (Twenty Lakhs Ninety Three Thousands Five Hundreds and One Only) 7% Non-Convertible Redeemable Preference Shares of Re 1 each, comprising of the entire preference share capital of the company, and that such reduction is effected by paying against shares cancelled a sum of Rs 100 (Rupees One Hundred Only) per 7% Non-Convertible Redeemable Preference Shares of Re 1 each. In the

aforesaid Extra Ordinary General Meeting, shareholders also passed a special resolution for utilization of securities premium account not exceeding Rs 20,72,56,599/- (Rupees Twenty Crores Seventy Two Lakhs Fifty Six Thousands Five Hundreds Ninety Nine Only) for the pay-out against 7% Non-Convertible Redeemable Preference Shares being cancelled.

5. The Counsel for the Petitioner further submits that Article 9 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.

6. The counsel for the Petitioner further state that as stated in paragraph 30 of the Petition, with respect to the form of minutes in respect of reduction of share capital exact amount to be paid to shareholders in terms of the Special Resolution has been determined, the Petitioner has accordingly filed additional Affidavit dated 16th November 2015 in support of company Scheme Petition and the form of Minutes have been annexed as Exhibit-B to the additional Affidavit.

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 the Rules made thereunder.

8. No objector has come forward to oppose the proposed reduction. Since the requisite statutory procedure has been fulfilled, the Company Scheme Petition is made absolute in terms of prayer clauses (a) & (b).

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

10. All concerned parties to act on ordinary copy of order and the form of minutes annexed as 'Exhibit B' to the additional affidavit dated 16th November 2015 in support of Company Scheme Petition, duly authenticated by the Company Registrar, High Court, Bombay.

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

(K.R. SHRIRAM, J)

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed order.

Uploaded by: Shankar Gawde, Stenographer