

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2015

Coram

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

C.P.No.279 of 2015

Prashanth Textiles Private Limited
represented by its Managing Director
Mr.R.Skandha Varatharaj
1 to 12, Thondamuthur Road
Rangasamy Nagar,
Vedapatti, Sundapalayam
Coimbatore - 641 007. ..Petitioner

Petition under Sections 100 and 101 of the Companies Act, 1956, Section 52 of the Companies Act, 2013 read with Rule 11(a)(3) and Rule 46 of the Companies Court Rules, 1959, for confirming the reduction of paid up share capital of the petitioner resolved by the shareholders of the company by the special resolution dated 29.05.2015; that to this end, all enquiries and directions necessary and proper be made and given, and for approving the proposed minute.

For Petitioner : M/s.Ramakrishnan Viraraghavan

For Regional Director : Mr.G.Venkatesan
Central Government Counsel

ORDER

This petition is filed under Sections 100 and 101 of the Companies Act, 1956, Section 52 of the Companies Act, 2013 read with Rule 11(a)(3) and Rule 46 of the Companies Court Rules, 1959, for confirming the reduction of paid up

share capital; and that to this end, all enquiries and directions necessary and proper be made and given, and for approving the proposed minute to the effect that,

"The paid-up share capital of the company be reduced to Rs.70,00,000/- (Rupees Seventy Lakhs Only) comprising of 50,00,000 (Fifty lakhs) equity shares of Rs.1/- (Rupee one only) each and 20,00,000 (Twenty lakhs) 1% Redeemable Preference shares of Rs.1/- (Rupee one only) each, the securities premium account and the capital reserve of the petitioner be reduced by Rs.3,75,00,000/- and Rs.2,50,000/- respectively."

2. The petitioner company is presently carrying on the business of conversion of cotton into yarn. The nature of business carried on and the object of the petitioner company is detailed in the Memorandum of Association. Certified copy of the Certificate of incorporation and the Memorandum and Articles of Association is filed as Annexure -1. A copy of the Audited Accounts for the year ending 31st March 2014 is filed as Annexure-2. A copy of the Audited Accounts for the year ending 31st March 2015 is filed as Annexure-3.

3. On 29.05.2015, the Members of the petitioner

<https://hcservices.ecourts.gov.in/> company convened an Extraordinary General Meeting and resolved to reduce the share capital, share premium and

capital reserves. A copy of the notice convening the Extraordinary General Meeting on 29.05.2015 is filed as Annexure-4. The certified copy of the extracts of minutes of the Extraordinary General Meeting of the Company held on 29.05.2015 is marked as Annexure - 5. In the Extraordinary General Meeting held on 29.05.2015, the shareholders of the petitioner company unanimously passed the special resolution approving the reduction of share capital, share premium and capital reserves. Special resolution passed in the Extraordinary General Meeting held on 29.05.2015, reads as follows:-

"RESOLVED THAT pursuant to Sections 100 to 104 and other applicable provisions of the Companies Act, 1956 and other applicable provisions, if any, of Companies Act, 1956 and the Companies Act, 2013, Article 7 of the Articles of Association (amended as aforesaid) and subject to other necessary consents, approvals, permissions and sanctions as may be necessary and subject further to the confirmation by the Hon'ble High Court of Judicature at Madras, consent of the members be and is hereby accorded for the reduction of the paid-up share capital of the company from Rs.7,00,00,000/- (Rupees Seven Crores only) comprising of 50,00,000 (Fifty Lakh) equity shares of Rs.10/- (Rupees ten only) each and 20,00,000 (Twenty

lakhs) Preference shares of Rs.10/- (Rupee ten only) each to Rs.70,00,000/- (Rupees Seventy Lakhs only) comprising of 50,00,000 (Fifty Lakh) equity shares of Rs.1/- (Rupees one only) each and 20,00,000 (Twenty Lakh) Preference shares of Rs.1/- (Rupees one only) each by reducing the face value of both the equity shares and the preference shares from Rs.10/- each to Rs.1/- each.

RESOLVED FURTHER THAT subject to provisions of Sections 100 to 104 of the Companies Act, 1956, Section 52 of the Companies Act, 2013 and other applicable provisions, if any, of the Companies Act, 1956 and Companies Act, 2013, Article 7 of the Articles of Association (as amended) and subject to other necessary consents, approvals, permissions and sanctions as may be necessary and subject to confirmation by the Hon'ble High Court of Judicature at Madras, the securities premium account of the company amounting to Rs.3,75,00,000/- and capital reserve amounting to Rs.2,50,000 be and hereby is reduced in full.

RESOLVED FURTHER THAT the above reduction be utilized for writing off the deficit to the extent of Rs.10,07,50,000/- (Rupees Ten Crore Seven Lakhs and Fifty Thousand only) in

*the Profit and Loss Account
(accumulated losses)".*

In the light of the special resolution passed unanimously approving the reduction of share capital, share premium and capital reserves, this petition is filed before this Court.

4. The petitioner is a closely held private company consisting of ten equity shareholders and two preference shareholders. The two preference shareholders are also the equity shareholders of the petitioner. The two preference shareholders have given affidavit consenting to the reduction of capital, share premium and capital reserve of the petitioner, which are enclosed as Annexure-6. The petitioner company does not have any secured creditor as on date and the Certificate of the Chartered Accountant to that effect is annexed as Annexure-7.

5. Publication containing the advertisement of hearing of the petition was effected in one issue of English daily "Trinity Mirror", Coimbatore Edition, on 15.07.2015 and also in another issue of Tamil daily "Makkal Kural", Coimbatore Edition on 15.07.2015.

6. Notice has been issued to the Regional Director, Ministry of Corporate Affairs, Chennai, for filing his objection. The Regional Director has filed his report stating no objection for the proposed reduction.

7. As stated in the petition and as seen from the financial statements filed, the decision taken to have a true reflection of the financial position of the company is purely a commercial decision. Considering the fact that such move has been approved by the overwhelming majority of the shareholders, apart from the facts that such reduction does not involve the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up capital, and there is no outflow of funds or assets from the petitioner or any reduction in the amount payable to any of the creditors and the reduction will not affect the normal operations of the petitioner or its ability to honour its commitment and to pay its debts in the ordinary course of business, this Court does not find any impediment in granting the reliefs prayed for herein. In the light of the above said facts, the procedure stipulated in Section 101(2) and (3) of the Companies Act, 1956, for the settlement of list of creditors will not apply. The prayers sought for in this petition are granted and the petition is allowed.

8. A certified copy of the order including the minutes as approved be delivered to the Registrar of Companies within twenty one days and the notice of the registration order by the Registrar of Companies and of the said minutes as approved by this Court be published in one issue of

English daily ''The New Indian Express'' and also in one issue of Tamil Daily ''Dinamani'' within four weeks from the date of receipt of copy of the order.

9. The petitioner company is hereby directed to pay a sum of Rs.5,000/- (Rupees five thousand only) towards fee to the Central Government Counsel for Regional Director.

sd/.P.S.N.J

06.08.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/21.08.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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