HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No.251 OF 2015

ORDER:

This Company Petition is filed under Section 101 of the Companies Act, 1956 (in short "the Act") by M/s. Corommandel Logistics Private Limited, represented by its Director, for confirming the reduction of share capital.

The petitioner is a company incorporated under the Act, on 17.11.1978 under the name and style of M/s. Corommandel Lubricants Private Limited, situated at Visakhapatnam. Later the name was changed as M/s. Corommandel Logistics Private Limited in terms of the special resolution under Section 21 of the Act. The main objects of this Company is to own, take on lease or on hire, run, manage, administer, operate and maintain bulk material and cargo handling systems and equipments of all kinds, container handling systems and container terminals on contract basis or otherwise to handle cargo of all nature and description in any Sea Port or Air port and also to carry on the business of carrying and forwarding, transporters, shippers, wharfingers, warehousemen, stevedores, freight carriers by land, air and water etc. It is stated that as per Article 31 of the Articles of Association, subject to the confirmation by the Court, the company may from time to time by a special resolution reduce its share capital. The authorised share capital of the petitioner company as on 31.03.2014 is Rs.35,00,000/- divided into 33,000 equity shares of Rs.100/- each and 2000 – 10% Redeemable Cumulative Preference Shares of Rs.100/- each, and the present issued, subscribed and paid up capital of the petitioner is Rs.29,05,100/- divided into 27,051 equity shares of Rs.100/- each and 2000 –

10% Redeemable Cumulative Preference Shares of Rs.100/- each.

The petitioner-company states that after commencing the business, due to the factors beyond its control suffered huge financial losses and its entire net worth got eroded, therefore, nobody is coming forward to finance the company. Therefore, it is decided to reduce its share capital by reducing the accumulated losses of Rs.26,81,293/- as on 31.03.2014 which is unrepresented by the available assets, as provided under Section 100 of the Act. Accordingly, the petitioner-company has passed a Special Resolution on 30.09.2014, in accordance with Section 189 of the Act, at its Annual General Meeting as under:

> "RESOLVED that pursuant to Section 100 to 104 and other applicable provisions, if any, of the Companies Act, 1956 and the applicable provisions of the Companies Act, 2013 including any Statutory modification(s) or re-enactment thereof for the time being in force read with Article 31 of the Articles of Association of the Company and subject to the confirmation of the Hon'ble High Court of Hyderabad for the State of Telangana and the State of Andhra Pradesh at Hyderabad, the share capital of the Company be and is hereby reduced from Rs.29,05,100 divided into 27051 equity shares of 100/- each and 2,000, 10% Redeemable Preference Shares of Rs.100/- each to Rs.4,70,510 divided into 27051 Equity Shares of Rs.10 each and 2,000-10% Redeemable Cumulative Preference Shares of Rs.100 each and that such reduction be effected by reducing the capital which has been lost or is unrepresented by available assets, to the extent of Rs.90 per Equity Share.
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> RESOLVED FURTHER THAT an amount of Rs.24,34,590 be set off against accumulated losses of Rs.26,81,293/-.
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> RESOLVED FURTHER THAT on such reduction the said 27051 equity shares of Rs.10/- (Rupee Ten each) be consolidated and divided into 27051 equity shares of Rs.10/- (Rupees Ten only) each.
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> RESOLVED FURTHER THAT consequential amendments be made in the capital clause of the Memorandum of Association of the Company after such reduction and consolidation becomes operative and effective.

RESOLVED FURTHER THAT on such further reduction and consolidation becoming operative and effective, every member of the company do surrender to the company his old share certificate(s) in respect of the share(s) held by him and thereupon the company shall issue fresh share certificate(s) to the said shareholder.

RESOLVED FURTHER that the Board of Directors of the company be and is hereby authorised to move a petition to the Hon'ble High Court of Hyderabad for the State of Telangana and the State of Andhra Pradesh at Hyderabad for an order conforming the aforesaid reduction and Sri B.K. Nangalia, Director of the company be and is hereby authorised to sign and verify the petition and appoint advocates and to do all such acts deeds and things as may be necessary for obtaining the order of the Hon'ble High Court to the reduction of the capital in terms of the aforesaid resolution."

It is further stated that the petitioner-company has also availed an amount of Rs.70,350/- from the State Government of Andhra Pradesh, towards unsecured loans; that the present petition for reduction of share capital is by way of reducing fully paid up equity shares of Rs.100/- each to Rs.10/- each and therefore, the interests will not be affected and the proposed reduction of share capital does not involve either the diminution of any liability in respect of unpaid capital or payment to any shareholder of any paid up capital and creditors are not entitled to object the present petition. Hence, the present petition is filed seeking approval of the Court.

It is further submitted that the reduction of capital by reducing out of the capital which is in the excess of the wants of the petitioner company and therefore it would not be in the interest of the petitioner company to append the words "and reduced" with the name of the petitioner company which may be dispensed with.

On 17.08.2015, while admitting this petition, this Court directed the petitioner to cause publication of this petition in two daily news papers viz., The New Indian Express (English) and Andhra Bhomi (Telugu). Accordingly, the notice of hearing of the company petition was published in two daily news papers on 10.10.2015 and the proof of publication was filed on 31.10.2015. It is stated by the learned counsel for the petitioner that as on date, the petitioner does not have secured, unsecured and trade creditors and has not received any objections from any quarter in pursuance of the paper publications carried out by the petitioner.

The form of Minute proposed to be registered under Section 103(1)(b) of the Act is as under:

> "The share capital of the petitioner company is henceforth Rs.4,70,510/- divided into 27,051 equity shares of Rs.10/- each and 2,000 – 10% Redeemable Cumulative Preference Shares of Rs.100/- each reduced from Rs.29,05,100/- divided into 27,051 equity shares of Rs.100/- each and 2,000 – 10% Redeemable Preference Shares of Rs.100/- each."

In the light of the facts pleaded by the petitioner, as noted above, this Court is of the opinion that there can be no legally sustainable objection for approving the reduction of share capital in terms of Article 31 of the Articles of Association, which enables the company to reduce the share capital from time to time.

For the aforementioned reasons, the company petition is allowed by approving the reduction of share capital of the petitioner company as per the form of Minute proposed to be registered as reproduced above. The petitioner shall, within 30 days from the date of receipt of a copy of this order, cause a certified copy of the same to be delivered to the Registrar of Companies and the notice of registration of the form of Minute by the Registrar of Companies and the form of Minute shall be published in Form No.32, in the same newspapers in which notice of this Company Petition was published, within 14 days of the registration.

CHALLA KODANDA RAM, J

Dated: 19.11.2015
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