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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CO.PET. 673/2014

IN THE MATTER OF

DENSO INDIA LIMITED .....Petitioners

Through: Mr. Ajay Vohra, Senior Advocate, Mr. Satwinder Singh and Mr. N.P.S Chawla Advocates for the Petitioners.

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% 05.11.2014

SANJEEV SACHDEVA, J (ORAL)

1. This is petition filed under Section 100 to 105 of the Companies Act, 1956 read with Rule 46 of the Companies (Court) Rules, 1959 for confirming reduction of capital of Petitioner Company, proposing a reduction of issued, subscribed and paid up capital. The Petitioner has prayed for dispensation of the procedure prescribed under Section 101(2) of the Companies Act, 1956.

2. It has been submitted that the reason for the reduction

of share capital of the Petitioner Company is that the existing subscribed and paid up equity share capital of the Petitioner Company consisting of 27,879,644 equity shares of face value of Rs. 10/- each fully paid up aggregating to Rs. 278,796,440/- be reduced by cancelling and extinguishing 1,130,754 subscribed and paid up equity shared which are held by non-promoter shareholders as on November 30, 2014 or any other date as determined by the Board after the proposed reduction is approved by this Hon'ble Court. It is also submitted that existing issued equity share capital of Rs. 280,620,000 consisting of 28,062,000 equity shares of face value of Rs. 10/- each fully paid up shall also stand reduced to an amount of Rs. 267,488,900 (comprising of 26,748,890 equity shares of face value of Rs. 10/- each fully paid up) or equivalent to such higher amount of subscribed and paid up equity share capital as held by the promoter shareholders as on date as determined by the Board after the proposed reduction is approved by this Hon'ble Court.

3. It is submitted that Article VII (h) of the Articles of Association of the Petitioner Company authorizes Petitioner Company to reduce its share capital in any

manner for the time being authorized by law.

4. The proposed reduction has been approved by the Board of Directors of the Petitioner Company in its meeting held on 25th August 2014. Copy of Resolution passed by the Board of Directors of the Petitioner Company approving the reduction of the share capital of the Petitioner Company has been placed on record. The said resolution for the reduction of share capital of Petitioner Company has also been approved by the members of the Petitioner Company as a Special Resolution in its Annual General Meeting held on 23rd September 2014.

5. The Shareholders have also passed a Special Resolution at the Annual General Meeting held on 23.09.2014 approving the reduction of capital, as under:

> "*RESOLVED THAT* pursuant to the Articles of Association of the Company, Sections 100 to 105 and such other applicable provisions of the Companies Act, 1956 (including any statutory modifications or re-enactment thereof, for the time being in force) and, subject to confirmation by the Hon'ble High Court of Delhi at New Delhi or National Company Law Tribunal or any other relevant authority empowered to

approve the Scheme of Reduction of Share Capital [hereinafter referred to as ("High Court")] or such other sanctions and approvals of the appropriate authorities (if required) and subject to such terms, conditions or modifications if any, as may be prescribed by such authorities while granting such approvals, consents or permissions and which may be agreed to by the Board of Directors of the Company [hereinafter referred to as ("Board") which expression shall be deemed to include any Committee of Directors constituted by the Board], consent of the members be and is hereby accorded to the reduction of the Company's existing subscribed and paid-up equity share capital comprising of27,879,644 equity shares of face value INR 10/- each fully paid up aggregating to INR 278,796,440/- by cancelling and extinguishing 1,130,754 subscribed and paid-up equity shares which are held by non promoter shareholders or such other number of subscribed and paid-up equity shares but not exceeding 1,130,754 equity shares of the Company as held by the non promoter shareholders as on November 30, 2014 or any other date as determined by the Board after the proposed reduction is approved by the High Court [hereinafter referred to as "Record Date"].

"RESOLVED FURTHER THAT upon the reduction of the share capital of the Company, the subscribed and paid-up capital of the Company shall stand reduced

to 26,748,890 equity shares of face value of INR 10/- each fully paid up aggregating to INR 267,488,900/- or to such higher amount of the subscribed and paid up equity share capital depending upon the number of shares held by the promoter shareholders as on the Record Date."

"*RESOLVED FURTHER THAT* the Company's existing issued equity share capital of INR 280,620,000/- consisting of 28,062,000 equity shares of face value of INR 10/- each fully paid up shall also stand reduced to an amount of INR 267,488,900/- (comprising of 26,748,890 equity shares of face value of INR 10/- each fully paid up) or equivalent to such higher amount of the subscribed and paid up equity share capital as held by the promoter shareholders on the Record Date."

"*RESOLVED FURTHER THAT* upon extinguishment of such share capital, the issued, subscribed and paid-up equity share capital of the Company shall stand reduced to the extent of the face value of the equity shares so extinguished on the Record Date. ...."

6. Learned Senior Counsel for the Petitioner Company further submits that the said reduction is effected by paying off a sum of Rs. 145 per equity share to the Resident Member of the Company and for Non-Resident Member at a price not exceeding the price that

is arrived as per any internationally accepted pricing mythology for valuation of shares on arms length basis in accordance with Foreign Exchange Control Norms or Rs. 145 per equity share, whichever is lower, for extinguishment of equity shares held by them .

7. Further, the Petitioner Company has no Secured Creditors as on 20.09.2014 and has 45 Un-secured Creditors as on 20.09.2014. The said Un-secured Creditors have given their consent to the said reduction in share capital. A copy of the Certificate of the Chartered Accountant certifying the same has been enclosed with the Petition as Annexure I.

8. Learned Senior Counsel for the Petitioner Company further under instructions from the Petitioner undertakes that interest of the Un-secured Creditors shall be protected and there will be no diminution of liability qua the said Un-secured Creditors and they shall be paid as and when their respective amount fall due and payable. The said undertaking is accepted.

9. Keeping in view the aforesaid averments, the procedure laid down under Section 101(2) of the Companies Act, 1956 is dispensed with.

10. Issue notice to the Regional Director (Northern Region), Ministry of Corporate Affairs. Let a copy of the petition be also served on the Registrar of Companies within one week from today.

11. Further, it is directed that publication be carried out in Business Standard (English) and Jansatta (Hindi).

Renotify on 8^{th} January, 2015.

SANJEEV SACHDEVA, J

NOVEMBER 05, 2014
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