

IN THE HIGH COURT OF DELHI
COMPANY PETITION NO. 724/2014

Reserved on 25th February, 2015
Date of pronouncement: 17th March, 2015

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable):

And

Petition under Sections 100 to 105 of the Companies Act, 1956 and other applicable provisions of the Companies Act, 2013 read with Companies (Court) Rules, 1959

And

M/s. RAMPgreen Solutions Private Limited

.. Petitioner Company

Through Mr. Satwinder Singh and Mr.N.P.S. Chawla, Advocates for the petitioner

Ms. Aparna Mudiam, Assistant Registrar of Companies for the Regional Director

SUDERSHAN KUMAR MISRA, J.

1. This petition under Sections 100 to 105 of Companies Act, 1956 and other applicable provisions of the Companies Act, 2013 read with Companies (Court) Rules, 1959 has been filed by M/s. RAMPgreen Solutions Private Limited (hereinafter referred to as the 'petitioner company') for confirming the reduction of its issued, subscribed and paid-up share capital.

2. The registered office of the petitioner company is situated at New Delhi, within the jurisdiction of this court.

3. The petitioner company was originally incorporated under the Companies Act, 1956 on 16th June, 2000 with the Registrar of Companies, NCT of Delhi & Haryana at New Delhi under the name and style of vCustomer Services India Private Limited. The company changed its name to RAMPgreen Solutions Private Limited and obtained the fresh certificate of incorporation on 17th February, 2012.

4. The authorized share capital of the petitioner company, as on 31st March, 2014, was Rs.3,25,00,000/- divided into 32,50,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up share capital of the company was Rs.2,02,07,990/- divided into 20,20,799 equity shares of Rs.10/- each.

5. A copy of the Memorandum and Articles of Association of the petitioner company has been filed on record. The audited balance sheet, as on 31st March, 2014, of the petitioner company, along with the report of the auditors, and the provisional unaudited balance sheet and profit and loss account, as on 31st October, 2014, of the petitioner company have also been filed.

6. It has been submitted by the petitioner that the petitioner company was incorporated on June 16, 2000 by vCustomer Corporation (the 'Promoter Shareholder') holding 98 equity shares of Rs.10/- being 98% of

the total shareholding of the company and remaining two shares were held by Mr. Aditya Prakash and M/s. Kumar Associates, holding 1 equity share each of Rs.10/-. Mr. Aditya Prakash and M/s. Kumar Associates transferred their shares to the Promoter Shareholder on 04.02.2001 and 23.10.2000 respectively enabling the Promoter Shareholder to exercise 100% ownership and control over the company. Thereafter, in the year 2013, the Promoter Shareholder transferred its entire equity shareholding in the petitioner company to one of its group company registered in Mauritius viz. RG International Investments (the 'Promoter Group Shareholder') thereby enabling the Promoter Group Shareholder to wholly own and control the petitioner company. Further in 2013, pursuant to a Scheme of Amalgamation and subsequent preferential allotment by the company, equity shares were issued to Non Promoter Shareholders viz. Mr. Ganga Sharan Agrawal and Napean Finvest Private Limited. Therefore, the present shareholding pattern of the petitioner company is that the Promoter Group Shareholder is holding 10,08,299 equity shares (49.9% of paid-up share capital) and Non Promoters are holding 10,12,500 equity shares (51.1% of paid-up share capital) of Rs.10/- each.

7. It is further submitted by the petitioner that the Board of Directors of the petitioner company felt it imperative to separate the Promoter Group shareholder from the Non-Promoter Shareholders and re-emphasizing the control and ownership of the Promoter Group shareholder over the petitioner company, as previously held prior to

Scheme of Amalgamation and preferential allotment. Accordingly, the company has proposed a selective reduction of share capital by paying off the Non-Promoter Shareholders for extinguishment and cancellation of their subscribed and paid-up equity share capital, which will give a fair exit to the Non-Promoter Shareholders. It is claimed by the petitioner that the proposed reduction is a practical and efficient available option which will help the Non-Promoter Shareholders in realizing the fair value of their investments in the petitioner company which can be gainfully deployed elsewhere. The Board of Directors of the petitioner company recommended payment of Rs.675/- per equity share to the Non-Promoter Shareholders of the company as a part of the capital reduction process.

8. It is pleaded that the petitioner company is authorized by virtue of provisions of the Articles of Association of the company to reduce its share capital, as per the provisions of the Companies Act, 1956.

9. The Board of Directors of the petitioner company in their meeting held on 6th October, 2014 have unanimously approved the proposed reduction of the issued, subscribed and paid up share capital of the petitioner company. A copy of the resolution passed at the meeting of the Board of Directors of the petitioner company is placed on record.

10. A special resolution has been passed at the Extra Ordinary General Meeting of the equity shareholders of the petitioner company

held on 13th November, 2014 confirming the proposed reduction of the share capital. A copy of the minutes of the special resolution passed at the Extra Ordinary General Meeting is placed on record. The petitioner company does not have any secured or unsecured creditor, as on 31st October, 2014.

11. Learned counsel for the petitioner company has submitted that the proposed reduction does not involve either diminution of any liability in respect of unpaid share capital or payment to shareholders of any paid up share capital. It is further submitted that the proposed reduction in capital does not violate or override or circumvent any provision of the Companies Act, 1956 and the Companies Act, 2013, as applicable or any rules or regulations made thereunder. It is further submitted that no investigation proceedings under Section 235 to 251 of the Companies Act, 1956 are pending against the petitioner company. Learned counsel also confirms that the petitioner company is engaged in a business/industry where there is no sectoral cap and a non-resident shareholder is permitted to hold upto 100% of the paid-up equity share capital of the petitioner company under the automatic route as per the provisions of Foreign Exchange Management Act and regulations made thereunder.

12. In the aforesaid background, this petition is filed seeking approval of the resolution passed at the Extra Ordinary General Meeting held on

13th November, 2014. The Form of Minutes proposed to be registered under Section 103(1)(b) of the Act and annexed with the petition is reproduced as under:

“The subscribed and paid-up equity share capital of Rampgreen Solutions Private Limited is henceforth INR 1,00,82,990/- divided into 10,08,299 equity shares of INR 10/- each fully paid up or such higher amount, depending upon the number of equity shares held by the promoter shareholders as on the record date to be fixed by the board of directors of Rampgreen Solutions Private Limited or as on 14th November, 2014, whichever is later, reduced from INR 2,02,07,990/- divided into 20,20,799 equity shares of INR 10/- each fully paid up. At the date of registration of this minute, the issued equity share capital shall be deemed to be equal to the amount of subscribed and paid-up equity share capital and the remaining equity shares shall be unissued out of the authorized share capital of the Company.”

13. By order dated 24th November, 2014, notice of this petition was directed to be issued to the Regional Director, Northern Region and citations were directed to be published in the newspapers 'Business Standard' (English) and 'Jansatta' (Hindi) in terms of the Companies (Court) Rules, 1959. The petitioner has filed an affidavit showing compliance regarding service on the Regional Director, Northern Region as also publication of citations in the aforesaid newspapers on 8th December, 2014. Copies of the newspaper clippings containing the publications have been filed along with the affidavit.

14. In response to the notice issued, Mr. A. K. Chaturvedi, Regional Director, Northern Region, has filed his report dated 11th February, 2015

raising no objection to the proposed reduction of share capital of the petitioner company.

15. Despite publication of notice, no objection has been received from any creditor or any member of the public. The petitioner company, in the affidavit dated 10th February, 2015 of Sh. N.P.S. Chawla, Advocate of the petitioner company has submitted that neither the petitioner company nor its counsel have received any objection pursuant to citations published on 8th December, 2014. Thus, there appears to be no legal impediment in allowing the present petition.

16. In view of the averments made in the petition and there being no objection from any creditor or any member of the public, the petition is hereby allowed. The resolution passed by the petitioner company in its Extra Ordinary General Meeting held on 13th November, 2014 for reduction of its share capital is approved. The 'Form of Minutes' proposed to be registered under Section 103(1)(b) and annexed to the petition as Annexure 'M', is also approved.

17. A certified copy of this order be delivered to the Registrar of Companies within thirty days from today. The Registrar of Companies, on receipt of the certified copy of this order and minutes approved by this Court, is directed to register the same and effect the necessary alteration with regard to the company.

18. The notice of registration of this order and the resolution of the company shall be published in the 'Financial Express' (English) and 'Jansatta' (Hindi) within 14 days of the registration aforesaid.

19. The petition stands allowed in the above terms.

Dasti

SUDERSHAN KUMAR MISRA, J.

March 17, 2015