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

\+ CO.PET. 721/2014

IN THE MATTER OF

TEFAL INDIA HOUSEHOLD APPLIANCES PRIVATE LIMITED ..... Petitioner

Through: Mr. Vikram Bajaj and Mr. Rahul Ray, Advocates for Petitioner.

Mr. Rajneesh Kumar Singh Assistant RoC.

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

<u>O R D E R</u>

% 04.12.2014

1. This is a petition filed under Section 100 to 104 of the Companies Act, 1956 for confirming the reduction of share capital of the Petitioner Company. The Petitioner has prayed for dispensation of the procedure prescribed under Section 101(2) of the Companies Act, 1956 and for the approval the Form of Minutes under Section 103(1) of the Companies Act, 1956.

2. Learned Counsel for the Petitioner Company submits that, Petitioner has prayed for the reduction of its share capital by canceling the paid up equity share capital of the Petitioner Company, amounting to Rs. 23,93,64,000 (Rupees Twenty Three Crores Ninety Three Lakhs and Sixty Four Thousand) presently held by SEB Internationale SAS (the holding company of the Petitioner Company, authorized by Mr. Sunil

Kumar Wadhwa) which has been lost and is unrepresented by the available assets of the Company, to the same extent, on account of the accumulated losses of the Company.

3. Learned Counsel for the Petitioner Company submits that said reduction is proposed to reduce its issued share capital from Rs. 25,66,50,000 (Rupees Twenty Five Crores Sixty Six Lakhs and Fifty Thousand) divided into 2,56,65,000 equity shares of Rs. 10/- (Rupees Ten) each, fully paid up, to Rs. 1,72,86,000 (Rupees One Crore Seventy Two Lakhs and Eighty Six Thousand) divided into 17,28,600 equity shares of Rs. 10 (Rupees Ten) each, fully paid up. The Petitioner Company has proposed that such reduction may be effected by canceling the paid up equity share capital amounting to Rs. 23,93,64,000 (Rupees Twenty Three Crores Ninety Three Lakhs and Sixty Four Thousand), comprised in 2,39,36,400 equity shares of Rs. 10 (Rupees Ten) each, fully paid up and presently held by SEB Internationale SAS, as the same has been lost and is unrepresented by the available assets of the Company, to the same extent, on account of the accumulated losses of the Company.

4. It is submitted that Article 4 of the Articles of Association of the Petitioner Company provides that the Petitioner Company may, from time to time reduce its share capital in accordance with the provisions of the Companies Act, 1956.

5. It is submitted that the proposed reduction has been approved by the Board of Directors of the Petitioner Company in its Board Meeting held on June 25, 2014. Copy of the Resolution passed by the Board of Directors of the Petitioner Company approving the reduction of the share capital has been placed on record.

6. The Equity Shareholders have also passed Special Resolutions at the Annual General Meeting held on 27.06.2014 at the registered office of the Petitioner Company unanimously as under:

> ***"RESOLVED THAT*** *pursuant to the provisions of Section 100 and other applicable provisions, if any, of the Companies Act, 1956 and Companies Act 2013, provisions of the Articles of Association of the Company and subject to the confirmation, sanction and/or approval by the Hon'ble High Court of Delhi / National Company Law Tribunal and/or any other Court(s), judicial, quasi judicial or statutory Authority(ies) and subject to such terms, conditions or modifications if any, as may be prescribed by such Authorities / Court while granting the confirmation, sanction and/or approval, the issued, subscribed and paid up equity share capital of the Company be reduced from Rs. 25,66,50,000 (Rupees Twenty Five Crores Sixty Six Lakhs and Fifty Thousand) divided into 2,56,65,000 equity shares of Rs. 10/- (Rupees Ten) each, fully paid up, to Rs. 1,72,86,000 (Rupees One Crore Seventy Two Lakhs and Eighty Six Thousand) divided into 17,28,600 equity shares of Rs. 10 (Rupees Ten) each, fully paid up, and that such reduction be effected by canceling the paid up equity share capital amounting to Rs. 23,93,64,000 (Rupees Twenty Three Crores Ninety Three Lakhs and Sixty Four Thousand),*

comprised in 2,39,36,400 equity shares of Rs. 10 (Rupees Ten) each, fully paid up and presently held by SEB Internationale SAS, which has been lost and is unrepresented by the available assets of the Company, to the same extent, on account of the accumulated losses of the Company.

***RESOLVED FURTHER THAT** the accumulated losses of the company to the extent of the reduction of the paid up equity share capital, which is, Rs. 23,93,64,000 (Rupees Twenty Three Crores Ninety Three Lakhs and Sixty Four Thousand), be written off consequent to the cancelation of the paid up equity share capital of the Company as provided above.*

***RESOLVED FURTHER THAT** the effective date of reduction of the equity share capital be 01.01.2014, in view of the date of the last audited Balance Sheet of the Company being 31.12.2013.*

***RESOLVED FURTHER THAT** the share certificates encompassing the equity shares issued by the Company to SEB Internationale SAS, to the extent of the reduction of the paid up equity share capital, which is, Rs. 23,93,64,000 (Rupees Twenty Three Crores Ninety Three Lakhs and Sixty Four Thousand), be recalled and cancelled.*

***RESOLVED FURTHER THAT** all the Directors of the Company be and are hereby severally authorized to submit the required application / petition to the Hon'ble High Court of Delhi / National Company Law Tribunal and/or any other Court(s), judicial, quasi judicial or statutory Authority(ies), in connection with the reduction of the paid up equity share capital and to do all such acts, deeds and things, as may be necessary and expedient, to give effect to these Resolutions."*

***RESOLVED FURTHER THAT** all the Directors of the Company be and are hereby severally authorized* *and empowered to appoint legal counsel(s) and attorney(s), to appear and represent on behalf of the Company and/or the Directors in the said Court(s) / before the said Authority(ies) and to make any pleadings, applications or verification, etc. to conduct and prosecute in the above case, to deposit, to enter satisfaction on their behalf, to file and receive back any documents, papers or books filed as exhibits to make and appear in any application for new trial, to apply for execution of decree, to issue any process, to draw out money from Court, to issue any commission or commissions respecting the above case, to examine and cross examine any witness, any if necessary, to appeal from the order of the said Court / Authority(ies) to any higher Court(s) / Tribunal(s) and there to appear, plead and act on behalf of the Company and/or the Directors, whether as appellant(s) or respondent(s), as the case may be, and to do all and every and any other acts, deeds, matters and things whatsoever in or about the premises as fully and effectually to all intents and purposes as the Company and/or the Directors could do if personally present."*

7. Learned counsel for the Petitioner Company submits that Petitioner Company does not have any Secured Liability as on the date of provisional balance Sheet dated 31.10.2014 (Thirty First Day of October, Two Thousand and Fourteen) and that the Petitioner Company has no Creditors (Secured or Unsecured). A certified copy of the certificate of the Chartered Accountant of the Company certifying that there is no dues payable by the Company is annexed as Annexure-K.

8. The learned Counsel for the Petitioner Company further submits that the proposed reduction in capital neither involves any

financial outlay/ outgo on the part of the Petitioner Company nor does it directly or indirectly involve any outflow of the Petitioner's assets to its shareholders. It has further been submitted that reduction of the capital does not involve either diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital. Consequently, such reduction shall not cause any prejudice to the creditors or any other stakeholders of the Petitioner Company. The proposed reduction would also not in any manner adversely affect the ordinary operations of the Petitioner Company or the ability of the petitioner Company to honor its commitments in the ordinary course of its business.

9. Learned counsel for the petitioner submits that the scheme of reduction of share capital has been approved by the shareholders of the petitioner and there are no secured and unsecured creditors of the petitioner company. Copy of the Special Resolution passed at the Annual General Meeting held on 27.06.2014 by the Shareholders has been annexed as Annexure G of the petition.

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

11. Issue notice to the Regional Director (Northern Region),

Ministry of Corporate Affairs., Mr. Rajneesh Kumar Singh Assistant Registrar of Companies accepts notice on behalf of Regional Director. Let a copy of the petition be also served on the Registrar of Companies within one week from today.

12. Publication be carried out in "Economic Times" (English) and "Navbharat Times" (Hindi).

Renotify on 30th January, 2015

SANJEEV SACHDEVA, J

DECEMBER 04, 2014
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