

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved on: 14.12.2016
Judgment Pronounced on: 09.02.2017

CO.PET. 879/2015

IN THE MATTER OF:-

RELIGARE WEALTH MANAGEMENT LIMITED

...Petitioner Company

Through: Mr. Kunal Tandon and Ms. Snigdha
Sharma, Advocates.

Ms. Aparna Mudiam, Asst. Registrar
of Companies.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J.

CO.APPL. 3506/2015

The present application instituted on behalf of the Petitioner Company
prays as follows:

- “a) Dispense with the procedure prescribed and laid down
under Section 101(2) of the Companies Act, 1956;
- b) Pass any other and/or further order which this Hon'ble
Court may deem fit and proper in the fact and
circumstances of the case.”

It has been stated on behalf of the Petitioner Company that the proposed reduction of capital does not involve any financial outlay/outgo on the part of the Petitioner Company nor does it directly or indirectly involve any outflow of the assets of the Petitioner Company to its shareholders. It has been further stated that the proposed reduction of capital does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital. It has been further stated that the proposed adjustment will not in any way adversely affect the creditors, shareholders or any stakeholders of the Petitioner Company; ordinary operations of the Petitioner Company; or its ability to honour its commitments; or to pay its debts in the ordinary course of business.

In view of the foregoing and for the reasons stated in the application present application seeking dispensation with the procedure prescribed under the provision of Section 101(2) of the Companies Act, 1956 is allowed.

The application is accordingly disposed of.

CO.APPL.1792/2016

The present application instituted on behalf of the Petitioner Company prays as follows:

- “a) Take on record and approve the revised Form of Minutes under Section 103(1) of the Companies Act, 1956, as set out in paragraph 5 herein above, proposed to be filed with the Registrar of Companies, NCT of Delhi and accordingly amend para 29 of the Petition; and
- b) Pass any other and/or further order which this Hon'ble Court may deem fit and proper in the fact and

circumstances of the case.”

It is stated on behalf of the Petitioner Company that during the pendency of the present petition, the Petitioner Company in order to meet its funds requirement, has issued additional capital to its holding company. It is in this behalf that the learned counsel for the Petitioner Company has drawn my attention to paragraph 3 of the present application, which sets out in detail the additional capital so issued. Paragraph 4 of the present application reads as hereunder:

“The Petitioner Company has issued 20,00,000, 0.01% Cumulative Non-Convertible Redeemable Preference Shares of Rs 10 each on April 29, 2016 thereby increasing the 0.01% Cumulative Non-Convertible Redeemable Preference Share Capital from Rs.84,000,000 (Rupees Eight Crores Forty lakh only) comprising of 8,400,000 (Eighty Four Lakh only) shares of Rs.10/- each to Rs.104,000,000 (Rupees Ten Crores Forty lakh only) comprising of 10,400,000 (One Crore Four Lakh only) shares of Rs. 10/- each.”

It is in this view of the matter that the applicant/Petitioner Company has prayed for taking on record and approving the revised form of minutes and accordingly amend paragraph 29 of the accompanying petition.

In so far as the limited reliefs for taking on record the revised form of minutes and accordingly amending paragraph 29 of the present petition are concerned, for the reasons stated in the application the same are hereby granted. The revised form of minutes is taken on record and paragraph 29 of the accompanying is accordingly amended and shall now read as follows: -

"The Securities Premium account of the Company be reduced from Rs. 233,000,000 (Rupees Twenty Three Crores and Thirty Lakhs only) to Nil;

The issued, subscribed and paid up Equity Share Capital Account of the Company is henceforth, Rs. 230,000,000 (Rupees Twenty Three Crores only) comprising of 115,000,000 (Eleven Crores and fifty lakhs) shares of Rs. 2/- each fully paid; reduced from Rs.1,150,000,000 (Rupees One Hundred and Fifteen Crores only);

The issued, subscribed and paid up 8% Non-cumulative Compulsorily Convertible Preference Share Capital Account of the Company is henceforth Rs. 19,800,000 (Rupees One Crore and Ninety Eight Lakhs only) comprising of 6,600,000 (Sixty Six lakhs) shares of Rs. 3/- each fully paid, reduced from Rs. 66,000,000 (Rupees Six Crores Sixty lakh only);

The issued, subscribed and paid up 0.01% Cumulative Nonconvertible Redeemable Preference Share Capital Account of the Company is henceforth, Rs. 1,04,000,000 (Rupees Ten Crores Forty lakh only) comprising of 10,400,000 (One Crore Four Lakh only) shares of Rs. 10/- each. "

As regards the other relief sought by way of the present application, seeking approval of the revised form of minutes under Section 103(1) of the Act, the same relief has also been sought in the accompanying petition and shall be dealt with in the petition itself.

Application is disposed of accordingly.

CO.APPL.4951/2016

The present application instituted on behalf of the Petitioner Company prays as follows:

- “a) Take on record the changed/new registered address of the Petitioner Company as Unit No. 401, 4th Floor, Southern Park, Saket District Centre, Saket, New Delhi - 110017 for all past, present and future purposes and substitute the same in memo of parties.
- b) Take on record and approve the revised Form of Minutes under Section 103(1) of the Companies Act, 1956, as set out in paragraph 7 herein above and Annexure B, proposed to be filed with the Registrar of Companies, NCT of Delhi and accordingly amend para 29 of the Petition; and
- c) Pass any other and/or further order which this Hon'ble Court may deem fit and proper in the fact and circumstances of the case.”

In so far as prayer clause (a) is concerned, seeking to place on record the new/changed registered address of the Petitioner Company, it is stated on behalf of the Petitioner Company that the registered address thereof has changed to Unit No. 401, 4th Floor, Southern Park, Saket District Centre, Saket, New Delhi 110017, w.e.f. 26.07.2016. For the reasons stated in the application, the prayer seeking to place on record the changed/new registered address of the Petitioner Company is allowed. The changed/new registered new address of the Petitioner Company be taken on record and updated in the memo of parties as Unit No. 401, 4th Floor, Southern Park, Saket District Centre, Saket, New Delhi 110017.

In so far as prayer clause (b) is concerned, it is stated on behalf of the Petitioner Company that during the pendency of the present petition, the Petitioner Company has issued capital on 30.09.2016 and 31.10.2016, in addition to the said capital issued on 29.04.2016. It is in this behalf that the learned counsel for the Petitioner Company has drawn my attention to paragraph 6 of the present application, which sets out in detail the additional capital so issued. Paragraph 6 of the present application reads as hereunder:

“That in the meantime and during the pendency of the petition, the Petitioner Company has further issued 10,00,000 0.01% Cumulative Non-Convertible Redeemable Preference Shares of Rs 10 each on September 30,2016 and 15,00,000, 0.01% Cumulative Non-Convertible Redeemable Preference Shares of Rs 10 each on October 31,2016 thereby increasing the 0.01% Cumulative Non-Convertible Redeemable Preference Share Capital from Rs. 84,000,000 (Rupees Eight Crores Forty Lakhs only) comprising of 8,400,000 (Eighty Four Lakhs only) shares of Rs. 10/- each to Rs. 129,000,000 (Rupees Twelve Crores Ninety Lakhs only) comprising of 12,900,000 (One Crore Twenty Nine Lakhs only) shares of Rs. 10/- each including the share capital issued on April 29, 2016 as mentioned in above paragraph 4.”

It is in this view of the matter that the applicant/Petitioner Company has prayed for taking on record and approving the revised form of minutes and accordingly amend paragraph 29 of the accompanying petition. In so far as the limited reliefs for taking on record the revised form of minutes and accordingly amending paragraph 29 of the present petition are concerned, for the reasons stated in the application the same are hereby granted. The revised form of minutes is taken on record and paragraph 29 of the accompanying is accordingly amended and shall now read as follows: -

"The Securities Premium account of the Company be reduced from Rs. 233,000,000 (Rupees Twenty Three Crores and Thirty Lakhs only) to Nil;

The issued, subscribed and paid up Equity Share Capital Account of the Company is henceforth, Rs. 230,000,000 (Rupees Twenty Three Crores only) comprising of 115,000,000 (Eleven, Crores and fifty Lakhs) shares of Rs. 2/- each fully paid; reduced from Rs. 1,150,000,000 (Rupees One Hundred and Fifteen Crores only);

The issued, subscribed and paid up 8% Non-cumulative Compulsorily Convertible Preference Share Capital Account of the Company is henceforth Rs. 19,800,000 (Rupees One Crore and Ninety Eight Lakhs only) comprising of 6,600,000 (Sixty Six Lakhs) shares of Rs. 3/- each fully paid, reduced from Rs. 66,000,000 (Rupees Six Crores Sixty Lakhs only);

The issued, subscribed and paid up 0.01% Cumulative Nonconvertible Redeemable Preference Share Capital Account of the Company is henceforth, Rs. 1,29,000,000 (Rupees Twelve Crores Ninety Lakhs only) comprising of 12,900,000 (One Crore Twenty Nine Lakhs only) shares of Rs. 10/- each. "

As regards the relief seeking approval of the revised form of minutes under Section 103(1) of the Act is concerned, the same relief has also been sought in the accompanying petition and shall be dealt with in the petition itself.

Application is accordingly disposed of.

CO.PET. 879/2015

1. The present petition has been filed jointly under Sections 100 to 104 of the Companies Act, 1956 (hereinafter referred to as 'the Act') read with Section 52 of the Companies Act, 2013 and Rules 46 and 47 of the Companies (Court) Rules, 1959, has been filed by Religare Wealth Management Limited (hereinafter referred to as 'Petitioner Company') seeking sanction of this Court to the proposed reduction of capital appearing in the books of the Petitioner Company.

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 provisions of the Act, vide certification of incorporation dated 15.03.2007 issued by the Registrar of Companies, N.C.T. of Delhi and Haryana, under the name and style of 'Religare Wealth Management Services Limited'. Thereafter, on 11.03.2008, the name of the Petitioner Company was changed to 'Religare Macquarie Wealth Management Limited'. Subsequently, the name of the Petitioner Company was changed to its present name on 27.11.2013.

4. The authorised share capital of the Petitioner Company, as on the date of approval by the Board of Directors of the Petitioner Company to the proposed reduction of capital, is stated to be Rs.1,30,00,00,000/-, divided into 11,50,00,000 equity shares of Rs.10/- each; and 1,50,00,000 preference shares of Rs.10/- each. The issued, subscribed and paid-up share capital is Rs.1,30,00,00,000/-, divided into 11,50,00,000 equity shares of Rs.10/- each; 66,00,000 8% Non-cumulative compulsory convertible preference shares of Rs.10/- each; and 84,00,000 0.01% cumulative non-convertible redeemable preference shares of Rs.10/- each.

5. Thereafter, during the pendency of the Petition, the Petitioner Company has issued 20,00,000; 10,00,000; and 15,00,000 0.01% Cumulative Non-Convertible Shares of Rs.10/- each, on 29.04.2016, 30.09.2016 and 31.10.2016, respectively. The Petitioner Company, as on 31.10.2016 is stated to have issued 1,29,00,000 0.01% Cumulative Non-Convertible Redeemable Preference Shares of Rs.10/- each aggregating to Rs.12,90,00,000.

6. Further, the Petitioner Company, as on 31.03.2015, is stated to have Rs.23,30,00,000/- as credit balance in its Security Premium account.

7. Copies of the Memorandum and Articles of Association of the Petitioner Company have been filed on record. The audited balance sheet of the Petitioner Company for the year ended 31.03.2015 has also been enclosed alongwith the present petition.

8. It has been stated by learned counsel for the Petitioner Company that the Petitioner Company has incurred significant losses over the past years. The amount of deficit standing in the balance sheet of the Petitioner Company, as on 31.03.2015, is Rs.1,44,58,61,267/-, represented as 'Deficit in the statement of Profit & Loss account'. It has been further stated that it is in this view of the matter that the Board of Directors of the Petitioner Company has decided to carry out financial restructuring by writing off its accumulated losses to the extent of Rs.1,19,92,00,000/-. The Petitioner Company proposes to carry out financial restructuring, to adjust the debit balance of profit and loss to the extent of Rs.1,19,92,00,000/- (Rupees One Nineteen Crores Ninety Two Lakhs only) of the Company, in the following manner:

- The Securities Premium Account of the Company be reduced from Rs.233,000,000/- to Nil;

- Equity share capital be reduced from Rs.1,150,000,000/- comprising of 115,000,000 shares of Rs.10/- each fully paid to Rs.230,000,000/- comprising of 115,000,000 shares of Rs. 2/- each fully paid; and
- 8% Non-cumulative compulsorily convertible preference shares be reduced from Rs.66,000,000/- comprising of 6,600,000 shares of Rs.10/- each fully paid to Rs.19,800,000/- comprising of 6,600,000 shares of Rs. 3/- each fully paid.

9. The Petitioner Company by virtue of provision of Article 77 of its Articles of Association is authorized to reduce its capital/Securities Premium in any manner as permitted in law.

10. The Board of Director of the Petitioner Company in its meeting held on 16.10.2015; the equity and preference shareholders of the Petitioner Company in their separate meetings held on 23.10.2015, have approved the proposed reduction of capital. A copy of the said resolutions dated 16.10.2015 and 23.10.2015 have been placed on record.

11. In the aforesaid background, this petition is filed seeking approval of the said resolution dated 16.10.2015, passed by the Board of Directors. The Form of Minutes sought to be registered under Section 103(1) of the Act reads as follows:

"The Securities Premium account of the Company be reduced from Rs.233,000,000 (Rupees Twenty Three Crores and Thirty Lakhs only) to Nil;

The issued, subscribed and paid up Equity Share Capital Account of the Company is henceforth, Rs.230,000,000 (Rupees Twenty Three Crores only) comprising of 115,000,000 (Eleven, Crores and fifty Lakhs) shares of Rs.2/- each fully paid; reduced from Rs. 1,150,000,000 (Rupees One Hundred and Fifteen Crores only);

The issued, subscribed and paid up 8% Non-cumulative Compulsorily Convertible Preference Share Capital Account of the Company is henceforth Rs.19,800,000 (Rupees One Crore and Ninety Eight Lakhs only) comprising of 6,600,000 (Sixty Six Lakhs) shares of Rs.3/- each fully paid, reduced from Rs. 66,000,000 (Rupees Six Crores Sixty Lakhs only);

The issued, subscribed and paid up 0.01% Cumulative Nonconvertible Redeemable Preference Share Capital Account of the Company is henceforth, Rs.1,29,000,000 (Rupees Twelve Crores Ninety Lakhs only) comprising of 12,900,000 (One Crore Twenty Nine Lakhs only) shares of Rs.10/- each. "

12. Notice was directed to be issued in the present petition vide order of this Court dated 09.12.2015. Notice was accepted by Deputy Registrar of Companies, on behalf of the Regional Director. Furthermore, citations were directed to be published in the newspapers, namely, 'Indian Express' (English edition) and 'Jansatta' (Hindi edition). Affidavit of service and publication dated 17.02.2016 has been filed by the Petitioner Company

showing compliance regarding service of Petition on the Registrar of Companies and the Regional Director, Northern Region, and also regarding publication of citations in the aforesaid newspapers on 09.02.2016.

13. In response to the notice issued, the Regional Director, Northern Region, Ministry of Corporate Affairs has filed its affidavit dated 16.05.2016 not raising any objection to the grant of sanction to the proposed reduction of capital.

14. No objection has been received to the proposed reduction of capital from any party. The Petitioner Company has filed an affidavit dated 27.06.2016 stating that neither the Petitioner Company nor their counsel have received any objection pursuant to publication of citations in the aforesaid newspapers.

15. In view of the averments made in the petition; there being no objection from any creditor or any member of the public; and the affidavit filed by the Regional Director not raising any objection to the proposed reduction of capital, the petition is hereby allowed. The said resolution dated 23.10.2015, passed by the equity and preference shareholders of the Petitioner Company, is hereby approved. The 'Form of Minutes', proposed to be registered under Section 103(1)(b), is also approved. The requirement of adding the words 'AND REDUCED' to the name of the Company is dispensed with.

16. 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.

17. The notice of registration of this order and the resolution of the company shall be published in the newspapers, namely, “Indian Express” (English edition) and “Jansatta” (Hindi edition) within 14 days of the registration as aforesaid.

18. The petition is allowed in aforesaid terms and is accordingly disposed of.

SIDDHARTH MRIDUL, J

FEBRUARY 09, 2017

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