

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. NO. 184 OF 2024
IN
COMPANY PETITION NO. 66 OF 2022

Under Section 66 of the Companies Act, 2013 and the Rules framed thereunder

IN THE MATTER OF:

M/S UNDER ARMOUR INDIA TRADING PRIVATE LIMITED

...APPLICANT COMPANY

ORDER DELIVERED ON: 02.07.2024

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

**For the Applicant : Adv. Tine Abraham, Adv. Shivani Rawat,
Adv. Shourya**

For the RD : Ms. Jyoti Khurana, Adv.

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present application has been filed by M/s Under Armour India Trading Private Limited (Applicant Company) under Section 420(2) of the Companies Act, 2013 read with Rule 154 and Rule 11 of the National Company Law Tribunal Rules, 2016 seeking rectification of an inadvertent error in the final order dated 15.04.2024 passed by this Tribunal. The relief sought by the Applicant Company are as follows: -
 - A. Pass further orders rectifying the inadvertent error in paragraph 21 of the final order; and
 - B. Pass any other reliefs as this Tribunal deems fit in the interest of justice, equity and good conscience.

2. We have perused the averments of the present application and the final order dated 15.04.2024.
3. On perusal of the terms of the capital reduction as recorded in Final order dated 15.04.2024 and approved by this Tribunal, it is evident that reduction of the paid-up share capital of the Company from INR 61,81,62,500/- divided into 6,18,16,250 equity shares of INR 10 each to INR 9,50,00,000 divided into 95,00,000 equity shares of INR 10 each by cancelling and extinguishing paid up equity share capital of INR 52,31,62,500 divided into 5,23,16,250 equity shares of INR 10 each fully paid up was allowed by this Tribunal vide its order dated 15.04.2024.
4. Further, the amount proposed to be reduced under the approved scheme of capital reduction would be utilized in the following manner:
 - (i) Returning to Under Armour Europe BV, a shareholder of the Company, an aggregate amount of INR 20,00,00,000 at an approximate rate of INR 3.82 per equity share; and
 - (ii) Writing off accumulated losses of INR 32,31,62,500 which is not represented by available assets of the Company out of the total accumulated losses amounting to INR 35,92,78,650 in their profit and loss account.
5. In view of the aforesaid terms of capital reduction as approved by the Shareholder of Company in their EoGM dated 12.04.2022 and also approved by this Tribunal vide its order dated 15.04.2024, this Tribunal is of the view that in the present case of selective reduction, shareholder of the Company namely Under Armour Europe BV, is being paid less than its original capital contribution.
6. However, inadvertently in para 21 in the order dated 15.04.2024 records that, *“the shareholders being paid higher amount than their original capital contribution relevant provisions of the Income Tax Act, 1961, regarding payment of withholding taxes are to be complied with by the petitioner company, before making the payment to the shareholders.”*

7. In view of the approved scheme of capital reduction, this Tribunal is of the view that para 21 of the order dated 15.04.2024 is inadvertently inserted since, the shareholder is being paid less than its original capital contribution. Accordingly, Para 21 of the order dated 15.04.2024 stands deleted.
8. However, we make it clear that, the present order will not come in the way of any action being taken by the Income Tax Authority or any other authority in accordance with law or any right of such authorities be affected.
9. The present order be read as part and parcel of order dated 15.04.2024 in C.P./66/2022.
10. Accordingly, **I.A. No. 184 of 2024 stands allowed and disposed of.**

Sd/-
DR. SANJEEV RANJAN
MEMBER (TECHNICAL)

Sd/-
MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)