

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-1**

CP/23(MB)2024

*In the matter of
Section 66 of the Companies Act,
2013 and the Rules framed
thereunder;
And
In the matter of
Reduction of Share Capital*

Modern India Limited

CIN: U17120MH1933PLC002031

...**Petitioner Company**

Order delivered on 23.07.2024

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice V.G. Bisht (Retd.)
Hon'ble Member (Judicial)

Appearance:

For the Petitioner Company : Mr. Hemant Sethi a/w Ms.
Devanshi Sethi, Ms. Tanaya
Sethi, i/b Hemant Sethi Co.,
Advocates

For Regional Director : Mr. Bhagwati Prasad, Deputy

Director, Western Region,
Mumbai

ORDER

1. Heard learned Counsel for the Petitioner Company. No objector has come before the Tribunal to oppose the Petition, nor any party has controverted any averments made in the Petition unless otherwise stated hereunder.
2. The Shareholders vide special resolution in the Extra Ordinary General Meeting held on 11th January, 2024 approved the reduction of the subscribed and paid – up equity share capital of the Company from **INR 7,50,85,500/-** (Rupees Seven Crores Fifty Lakhs Eighty Five Thousand Five Hundred only) divided into **3,75,42,750** (Three Crores Seventy Five Lakhs Forty Two Thousand Seven Hundred Fifty) equity shares of INR 2 (Rupees Two only) each fully paid up to **INR 7,05,55,290/-** (Rupees Seven Crores Five Lakhs Fifty Five Thousand Two Hundred Ninety only) divided into **3,52,77,645** (Three Crores Fifty Two Lakhs Seventy Seven Thousand Six Hundred Forty Five) equity shares of INR 2 (Rupees Two only) each fully paid up by cancelling and extinguishing **22,65,105** (Twenty Two Lakhs Sixty Five Thousand One Hundred Five) equity shares of INR 2 (Rupees Two only) each held by Non-Promoter Shareholders of the Company.
3. The Petitioner Company was incorporated on 24 October, 1933 and is, inter alia, engaged in various business verticals inter alia real estate and infrastructure development, power generation, background verification, commodities trading, international procurement solutions among others.

4. The rationale behind the reduction of share capital is that the equity shares of the Petitioner Company were listed on BSE Limited. Pursuant to a delisting offer made by the promoters of the Petitioner Company, the shares of the Petitioner Company were delisted from the BSE Limited and the trading of the Petitioner Company's equity shares ceased from 14th June, 2021. Post the delisting of shares of the Petitioner Company, a liquid market for trading of equity shares of the Petitioner Company is no longer available. In the absence of any liquidity event in the subsequent period and to provide an exit opportunity to the non-promoter equity shareholders of the Petitioner Company, the Board of Directors of the Petitioner Company considered it appropriate to reduce the equity share capital of the Petitioner Company by means of capital reduction.
5. It is submitted that Article 7 of the Articles of Association empowers the Petitioner Company to reduce its share capital in any manner for the time being authorised by law by passing a special resolution. The relevant extract of the article is reproduced as under:

"The Company may, from time to time by Special Resolution, reduce its capital in any manner for the time being authorised by law, and in particular capital may be paid off on the footing that it may be called up again or otherwise. This Article is not to derogate from any power the Company would have if it were omitted. "
6. That pursuant to the reduction, the Non-Promoter Shareholders of the Petitioner Company shall be paid INR 271.90/- (Rupees Two Hundred Seventy-One and Ninety Paise Only) per equity share, subject to applicable withholding taxes. The amount of INR 61,58,82,050 (Rupees Sixty One Crores Fifty Eight Lakhs Eighty

Two Thousand Fifty only) payable to the shareholders on reduction of equity share capital shall be accounted for in the books of accounts of the Petitioner Company by debiting the face value of 22,65,105 (Twenty Two Lakhs Sixty Five Thousand One Hundred Five) equity shares of INR 2 (Rupees Two only) being cancelled and the difference between the amount payable to the shareholders and the aggregate face value of the shares cancelled shall be debited to the Reserves. The valuation report dated 08th December 2023 issued by registered valuer, Transaction Square Advisory LLP, had arrived at a per share valuation of INR 271.90/- (Rupees Two Hundred Seventy One and Ninety Paise Only).

7. The Petitioner Company has complied with all the statutory requirements as per the directions of the Tribunal vide order dated 06th March 2024 and they have filed the necessary Affidavit of Service with the Tribunal on 03rd April 2024. Moreover, the Petitioner Company also undertakes to comply with statutory requirements, if any, under the Companies Act, 2013 and the Rules made thereunder, as may be applicable.
8. The Regional Director has filed his Report dated 26th June 2024 making certain observations and the Petitioner Companies undertaken that:
 - i. The interest of the creditors and minor shareholders/stakeholders, government dues shall be protected;
 - ii. The approval of the proposed capital reduction by this Hon'ble Tribunal may not deter the income-tax authorities to deal with any of the issues arising after giving effect to the

capital reduction and the same will be dealt by the Petitioner Company in accordance with the applicable laws;

iii. The proposed capital reduction is fair and in the interest of shareholders.

9. Mr. Bhagwati Prasad, Deputy Director in Office of Regional Director (WR), Mumbai appeared on the date of hearing and submits that the explanations and clarifications given by the Petitioner Companies in rejoinder are satisfactory and they have no further objection to the Scheme.
10. From the material on record, the Petition for reduction appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. Since all the requisite statutory compliances have been fulfilled and is made absolute in terms of the prayer clauses thereof. The Petition is hereby allowed.
11. The Petitioner Company undertakes to file the certified copy of the order and form of minutes duly certified by the Deputy Registrar / Assistant Registrar of this Tribunal with the Registrar of Companies within 30 days from the date of receipt of the certified Order from the Registry of this Tribunal.
12. The Petitioner Company to publish notices about registration of order and minutes by the concerned Registrar of Companies, Mumbai, Maharashtra in two newspapers namely “**Business Standard**” in English language and translation thereof in “**Navshakti**” in Marathi language both having circulation in the State of Maharashtra within 30 days of registration.

13. All concerned regulatory authorities to act on production of certified copy of the order duly signed by designated Registrar of this Tribunal.
14. The minutes set forth hereto be and is hereby approved.

Form of the Minute

“The issued, subscribed and paid up equity capital of Modern India Limited is henceforth Rs. 7,05,55,290 (Rupees Seven Crores Five Lakhs Fifty Five Thousand Two Hundred Ninety only) divided into 3,52,77,645 (Three Crores Fifty Two Lakhs Seventy Seven Thousand Six Hundred Forty Five) equity shares of Rs. 2 (Rupees Two only) each, reduced from Rs. 7,50,85,500/- (Rupees Seven Crores Fifty Lakhs Eighty Five Thousand Five Hundred only) divided into 3,75,42,750 (Three Crores Seventy Five Lakhs Forty Two Thousand Seven Hundred Fifty) equity shares of Rs. 2/- (Rupees Two only) each. On the date of registration of this minute, 3,52,77,645 (Three Crores Fifty Two Lakhs Seventy Seven Thousand Six Hundred Forty Five) equity shares of Rs. 2 (Rupees Two only) each of Modern India Limited are issued, subscribed and fully paid-up.”

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)