

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT NO. II

Company Petition/182/2023

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

AND

**In the matter of
Reduction of Equity
Share Capital of India
Factoring and Finance
Solutions Private
Limited.**

India Factoring and Finance)

Solutions Private Limited)

A company incorporated under the)

provisions of the Companies Act,)

1956

Having its registered office at Unit)

No.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT NO. II

Company Petition/182/2023

401, 4th Floor, Windsor House, Off)
CST Road, Vidyanagari Marg,)
Kalina,
Santacruz (East), Mumbai,)
Maharashtra, India – 400098)
CIN U65923MH2009PTC197957) ...Petitioner

Coram:

Anil Raj Chellan

Kuldip Kumar Kareer

Member (Technical)

Member (Judicial)

For the Applicant: Adv. Vikram Kamath a/w Chitra Rental,
Manikanda Prabhu

Order delivered on: 17.05.2024

ORDER

1. Petition Admitted and fixed for hearing on 19.08.2024.
2. The Counsel for India Factoring and Financial Solutions Private Limited (**Applicant Company**) submits that this is an application under Section 66 of the Companies Act, 2013 for confirmation of a special resolution for reduction of the paid-up share capital of the Applicant Company. The proposed

share capital of the Applicant Company would henceforth be INR 429,38,00,200 (Indian Rupees Four Hundred and Twenty Nine Crore Thirty Eight Lakh and Two Hundred only) divided into 42,93,80,020 (Forty Two Crore Ninety Three Lakh Eighty Thousand and Twenty) equity shares of INR 10 (Indian Rupees Ten only) each fully paid up, as reduced from 462,07,66,490 (Indian Rupees Four Hundred Sixty Two Crore Seven Lakh Sixty Six Thousand Four Hundred Ninety only) divided into 46,20,76,649 (Forty Six Crore Twenty Lakh Seventy Six Thousand Six Hundred Forty Nine) equity shares of INR 10 (Indian Rupees Ten only) each fully paid up. The said special resolution was passed by the Applicant Company in its extra-ordinary general meeting held on 17 April 2023. The reduction of share capital will be effected by cancellation of shares held by India Factoring Employees Welfare Trust amounting to Rs. 32,69,66,290 (Rupees Thirty-Two Crore Sixty-Nine Lakh Sixty-Six Thousand Two Hundred and Ninety Only) by set off of the outstanding loan.

3. The Counsel for the Applicant Company submits that there are 2 (two) secured creditors and 84 (eighty-four) unsecured creditors having a total outstanding balance of INR 79,00,00,000 (Indian Rupees Seventy-Nine Crore) and INR 981,71,89,913.69 (Indian Rupees Nine Hundred and Eighty-One Crore Seventy-One Lakh Eighty-Nine Thousand Nine Hundred and Thirteen and Paise Sixty-Nine) respectively as on 30 June 2023. However, the Counsel for the Applicant Company submits that the proposed capital reduction will not cause any prejudice to the interest of the creditors of the Applicant Company as there will not be any reduction in the amount payable to the respective creditors.

4. The Counsel for the Applicant Company submitted that the Applicant Company at the time of filing the Company Petition had procured a no-objection certificate from its key financial creditors that account for approx. 85.69% in value of the Company's total outstanding debt. Further, Counsel states that the Company has procured an NOC from Central Bank of India on 20 October 2023 which is a financial creditor that accounts for 5.09% in value of the total outstanding debt and

placed it before us by way of an additional affidavit and prayed for dispensing with the requirement giving notice to the creditors and the publication of notice to the creditors in the newspaper under Rule 3 of the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016.

5. However, as per Rule 3 (1) (iii) of the NCLT (Procedure for Reduction of Share Capital of Company) Rules, 2016, Notice has to be given to all the Creditors in all Cases in Form No. RSC-3. The Petitioner Company is hereby directed to serve notices within seven (7) days from the date of this order, of the hearing of the Petition along with copy of Petition upon the creditors with a direction that they may submit their representations to the Tribunal, if any, within a period of three months from the date of receipt of such notice and copy of such representations shall simultaneously be served upon the Petitioner Company, failing which, it shall be presumed that they have no representations to make on the proposed capital reduction of the Petitioner Company.

6. Within seven (7) days from the date of this order, the Applicant Company is directed to serve statutory notices upon the (i) Registrar of Companies, Mumbai, (ii) the Central Government through the Office of the Regional Director, Western Region, and (iii) Reserve Bank of India, with a direction that they may submit their representations, if any, within a period of 3 (three) months from the date of receipt of such notice to the Tribunal and a copy of such representations shall simultaneously be served on the Applicant Company, failing which, it shall be presumed that they have no representations to make on the proposal.
7. The Applicant Company is directed to file an Affidavit in this Tribunal not later than seven (7) days from the date of issuance of such notices as stated in paragraph 5 and 6 and to report to this Tribunal that the directions regarding the issue of notices have been duly complied with.

Sd/-

**ANIL RAJ CHELLAN
MEMBER TECHNICAL**

Sd/-

**KULDIP KUMAR KAREER
MEMBER JUDICIAL**