

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**CP No. 22/KB/2023**

*An application under section 66 of the Companies Act, 2013 read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016.*

In the matter of:

**Hind Marketing Corporation Private Limited**, a Company incorporated under the Companies Act, 1913 and having its Registered Office situated at Maurya Patna, South Gandhi Maidan, Patna- 800001, Bihar, India.

**.....Petitioner/Applicant**

**Date of Pronouncement:16 April,2024.**

**Coram:**

Smt. Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

**Appearances:**

For the Petitioner:

Mr. Shaunak Mitra, Advocate.

Mr. Avik Chaudhuri, Advocate.

Mr. Amandeep Singh, Advocate

Mr. Sudhir Kapoor, JD ] JD, RD(ER)

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**ORDER**

**Per D. Arvind, Member (Technical)**

1. This Court congregated through hybrid mode.
2. This Company Petition has been filed under section 66 of the Companies Act, 2013 (“the Act”) read with the National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016, by Hind Marketing Corporation Private Limited (Petitioner Company). The Petitioner Company seeks approval of the Scheme of Reduction of Share Capital as approved by the shareholders in Annual General Meeting of the Petitioner Company held on 31.08.2022.
3. The Ld. Authorised Representative for the Petitioner Company submits that no objector has come before the Tribunal to oppose the Petition and nor has any party controverted any averments made in the Petition.
4. The Ld. Authorised Representative for the Petitioner Company submits that the Article 37 of Articles of Association of the Petitioner Company and section 66 of the Companies Act, 2013 (“Act”) read with National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 empowers the Petitioner Company to reduce its share capital and securities premium account by passing a special resolution.
5. The Ld. Authorised Representative for the Petitioner Company submits that the Petitioner Company has accumulated carry forward losses of Rs. 10,35,59,581/- (Rupees Ten Crore Thirty-five Lakh Fifty-nine Thousand Five Hundred and Eighty-one

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Only) as on 31.03.2022 which has substantially wiped off the value represented by the preference share and equity share of the Company and that the accumulated losses of the company clearly show that the capital of the Company is not adequately represented by the available assets and improvements in the performance of the company cannot be appropriately reflected unless past losses are written off.

- 6.** The Board of Directors of the Petitioner Company at its meeting held on 01.08.2022 approved the reduction so that accumulated carried forward losses to the extent of Rs. 10,35,59,000/- (Rupees Ten Crore Thirty-five Lakh Fifty-nine Thousand Only) be adjusted from the cancellation of entire preference share capital, i.e., 10,15,000 shares of Rs. 100/- (Rupees One Hundred only) each aggregating to Rs. 10,15,00,000 (Rupees Ten Crore and Fifteen Lakh Only) and balance of Rs. 20,59,000/- (Rupees Twenty Lakh and Fifty-nine Thousand Only) against cancellation of 20,590 Equity Shares of Rs. 100/- (Rupees One Hundred Only).
  
- 7.** The shareholders of the Company in their Annual General Meeting held on 31.08.2022 passed the following Special Resolutions unanimously in accordance with Section 66(1) of the Companies Act, 2013 and therein it was:

“RESOLVED THAT pursuant to the provisions of Section 66 and other applicable provisions, if any, of the Companies Act, 2013 (including any statutory modification/s or re-enactment/s thereof for the time being in force), Article 37 of Articles of Association of the Company and subject to approval of Hon’ble

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Kolkata Bench of National Company Law Tribunal and such other approvals, consents, permissions and sanctions as may be necessary to be obtained from appropriate government authorities, departments, offices, institutions, bodies, agencies and third parties, and such conditions as may be prescribed while granting such approvals, consents, permissions and sanctions, which may be agreed by the Board of Directors, approval of shareholders of the Company be and is hereby given to the proposal to set off accumulated losses of the Company to the tune of Rs. 10,35,59,000/- (Rupees Ten Crore Thirty-five Lacs and Fifty-nine Thousand only) as per audited Financial Statements as at 31.03.2022, by reducing the issued, subscribed and paid up share capital of the Company, which shall be effected by way of:

- (a)** Extinguishment and cancellation of entire Preference Share Capital of the Company i.e. 10,15,000 (Ten Lacs Fifteen Thousand) shares of Rs. 100/- (Rupees One Hundred) each aggregating to Rs. 10,15,00,000/- (Rupees Ten Crore Fifteen Lacs only).
  
- (b)** Proportionate extinguishment and cancellation of Equity Shares of the Company to the tune of balance accumulated losses i.e. 20,590 (Twenty Thousand Five Hundred and Ninety) shares of Rs. 100/- (Rupees One Hundred) each aggregating to Rs. 20,59,000/- (Rupees Twenty lacs and Fifty-Nine Thousand only).

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- (c) Nil consideration being payable by the Company to the shareholders in lieu of reduction, extinguishment and cancellation of shares as mentioned above.

“RESOLVED FURTHER THAT Board of the Company be and is hereby authorized to do all such acts, deeds and things as may be required to give effect to the above said resolution.”

8. In terms of the direction of the Tribunal vide its Order dated 31.03.2023 and the “Affidavit on dispatch and Publication of Notice” as filed by the Petitioner Company:

(a) The notice was served in Form No. RSC-2, to the Central Government, through the office of the Regional Director, Eastern Region, Kolkata and to the Office of the Registrar of Companies, Bihar;

(b) The Notice was published in the Newspapers “Business Standard” (English) and “Sanmarg” (Hindi) on 17.04.2023 as directed.

(c) The notice was served in Form No. RSC-3, to the individual creditors. NOC from 4 out of total 5 creditors representing 80% creditors in numbers and 93.91% in value was received by the Petitioner Company.

9. The Regional Director, Eastern Region, has submitted its report in response to the notice issued to it. The Regional Director, Eastern Region, has not objected to this application for reduction of share capital of the Petitioner Company.

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**10.** Since the requisite statutory procedure has been fulfilled, the Petition is made absolute in terms of the prayer clauses of the Petition.

**11.** We hereby grant approval for the reduction of share capital of the Petitioner Company as resolved on and effected by Special Resolution passed at Annual General Meeting of the Petitioner Company on 31.08.2022, the extract is reproduced hereunder:

*“RESOLVED THAT pursuant to the provisions of Section 66 and other applicable provisions, if any, of the Companies Act, 2013 (including any statutory modification/s or re-enactment/s thereof for the time being in force), Article 37 of Articles of Association of the Company and subject to approval of Hon’ble Kolkata Bench of National Company Law Tribunal and such other approvals, consents, permissions and sanctions as may be necessary to be obtained from appropriate government authorities, departments, offices, institutions, bodies, agencies and third parties, and such conditions as may be prescribed while granting such approvals, consents, permissions and sanctions, which may be agreed by the Board of Directors, approval of shareholders of the Company be and is hereby given to the proposal to set off accumulated losses of the Company to the tune of Rs. 10,35,59,000/- (Rupees Ten Crore Thirty-five Lacs and Fifty-nine Thousand only) as per audited Financial Statements as at 31.03.2022, by reducing the issued, subscribed and paid up share capital of the Company, which shall be effected by way of:*

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- (a)** *Extinguishment and cancellation of entire Preference Share Capital of the Company i.e. 10,15,000 (Ten Lacs Fifteen Thousand) shares of Rs. 100/- (Rupees One Hundred) each aggregating to Rs. 10,15,00,000/- (Rupees Ten Crore Fifteen Lacs only).*
- (b)** *Proportionate extinguishment and cancellation of Equity Shares of the Company to the tune of balance accumulated losses i.e. 20,590 (Twenty Thousand Five Hundred and Ninety) shares of Rs. 100/- (Rupees One Hundred) each aggregating to Rs. 20,59,000/- (Rupees Twenty lacs and Fifty-Nine Thousand only).*
- (c)** *Nil consideration being payable by the Company to the shareholders in lieu of reduction, extinguishment and cancellation of shares as mentioned above.*

*“RESOLVED FURTHER THAT Board of the Company be and is hereby authorized to do all such acts, deeds and things as may be required to give effect to the above said resolution.”*

- 12.** This sanction will also not affect any action pending or contemplated by any Govt. authority or regulatory or statutory authorities for violation of any provision of the law for the time being in force.
- 13.** The Minute appended to the Petition and set forth in the Schedule is hereby approved.

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**FORM OF MINUTES**

*“The Issued, Subscribed and Paid-up Capital of the Company henceforth post reduction of capital (i.e. at date of registration of this minutes) is Rs. 1,84,41,000/- (Rupees One Crore Eighty-Four Lacs and Forty-One Thousand Only) divided into 1,84,410 (One Lac Eighty-Four Thousand Four Hundred and Ten) Equity Shares of Rs 100/- (Rupees One Hundred) each fully paid up and that such reduction be effected, inter alia, by adjustment of the debit balance (accumulated losses) of Rs. 10,35,59,000/- (Rupees Ten Crore Thirty-Five Lacs and Fifty-nine Thousand Only) in the Balance-Sheet as at 31<sup>st</sup> March, 2022 and to reduce the Issued, Subscribed and Paid-up Capital to the extent of Rs. 10,35,59,000/- (Rupees Ten Crore Thirty-Five Lacs and Fifty-Nine Thousand Only).”*

- 14.** A certified copy of this order including the Minute as approved be delivered to the Registrar of Companies within thirty days of receipt of the order as per provisions of sub-section (5) of section 66 of the Companies Act, 2013 who shall register the same and issue a certificate to that effect in Form No. RSC-7 [Rule 6(3)].
- 15.** The Petitioner, after receiving such certificate, to publish Notice of Registration of Order and Minute once in leading English Newspaper and once in Hindi Newspaper having wide circulation in the State in which the Registered Office of the Company is located, within two weeks thereafter.



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- 16.**The Petitioner Company shall comply with the statutory requirements, if any, required under the Companies Act, 2013 and the Rules notified thereunder as may be applicable.
- 17.**All concerned regulatory authorities to act on the certified copy of the Order including the Minute forming part of the petition.
- 18. C.P. No. 22/KB/2023** is hereby **disposed of** on the above terms.
- 19.**The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Authorised Representative for information and for taking necessary steps.
- 20.**Registry is also directed to send a copy of this order to the Registrar of Companies, Bihar, Patna.
- 21.**Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
- 22.**Files be consigned to the records.

**D. Arvind  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

**This order is signed on 16<sup>th</sup> Day of April,2024.**

Tiwari. V. [LRA]