

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 1**

**CP/35(AHM)2023**

**Order under Section 66 of the Co. Act, 2013**

**IN THE MATTER OF:**

Ind-Infra Developers Private Limited

.....Applicants

**Order delivered on: 14/05/2024**

**Coram:**

**Mr. Shammi Khan, Hon'ble Member(J)**  
**Mr. Sameer Kakar, Hon'ble Member(T)**

**ORDER UNDER RULE 154 OF NCLT RULES, 2016**

Final order in this matter was pronounced on 03.04.2024.

Ld. Counsel for the applicant submitted that in the aforesaid order, there are some typographical error in paragraph-4 of the order dated 03.04.2024 passed by this Tribunal in CP/35(AHM)2023.

We have heard Ld. Counsel for the applicant company and also gone through the record. On perusal of the order dated 03.04.2024 passed in CP/35(AHM)2023, it is seen that there are some inadvertent typographical error occurred in paragraph-4 of the aforesaid order.

Since the modification/rectification as sought by the applicant company is an inadvertent typographical error, we pass the following order:-

Paragraph-4 of the order dated 03.04.2024 passed in CP/35(AHM)2023 should be read as under:-

***The Share Capital structure of the Company as on 31<sup>st</sup> August 2023, is as under:***

| <b><i>Particulars</i></b>   | <b><i>Amount in Rs.</i></b>  |
|---|------------------------------|
| <b><i>Authorized:</i></b>   |                              |
| <b><i>70,00,000 equity shares of Rs. 10/- each</i></b>  | <b><i>7,00,00,000</i></b>    |
| <b><i>1,79,00,000 Preference shares of Rs. 100/- each fully paid up</i></b>                               | <b><i>1,79,00,00,000</i></b> |
| <b><i>Total</i></b>   | <b><i>1,86,00,00,000</i></b> |
| <b><i>Issued, Subscribed and Paid-up:</i></b>   |                              |
| <b><i>70,00,000 equity shares of Rs. 10/- each fully paid up</i></b>                                      | <b><i>7,00,00,000</i></b>    |
| <b><i>10,35,000 2.50% redeemable non-Cumulative Preference shares of Rs. 100/- each fully paid up</i></b> | <b><i>10,35,00,000</i></b>   |
| <b><i>Total</i></b>   | <b><i>17,35,00,000</i></b>   |

Save and except the above corrections, this corrigendum be read as part and parcel of the main order dated 03.04.2024.

**-sd-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-sd-**  
**SHAMMI KHAN**  
**MEMBER(JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.301  
CP/35(AHM) 2023

**Order under Section 66 of the Companies Act, 2013**

**IN THE MATTER OF:**

Ind-Infra Developers Private Limited

.....Applicant

**Order delivered on: 03/04/2024**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - I, AHMEDABAD**

**CP/35(AHM) 2023**

*Under Section 66 of the Companies Act, 2013*

In the matter of ***M/s. Ind-Infra Developers Private Limited***

**Ind-Infra Developers Private Limited**

CIN: U40106GJ2017PTC096369

"Oreva House", E-Third Floor, Titanium Square,  
Thaltej Cross Road, S.G. Highway,  
Thaltej, Ahmedabad GJ 380054

... Applicant

**Order pronounced on: 03.04.2024**

**CORAM:**

**MR. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**

**MR. SAMEER KAKAR, MEMBER (TECHNICAL)**

For the Applicant : Ms. Dharmishta Raval, Advocate  
For RD : Mr. Shiv Pal Singh, Deputy Director

**ORDER**

1. The instant Application has been filed by the Applicant Company under Section 66 of the Companies Act, 2013 for seeking confirmation in the reduction of share capital of Ind-Infra Developers Private Limited approved by the Shareholders by the Special Resolution.

2. The Applicant Company was incorporated on 20.03.2017 under the provisions of Companies Act, 1956 and having its registered office at "Oreva House", E-Third Floor, Titanium Square, Thaltej Cross Road, S.G. Highway, Thaltej, Ahmedabad GJ 380054.
3. The main objects of the Company as set out in the Clause of the Memorandum of Association of the Company, are briefly reproduced as under;
  - i. To carry on in India and anywhere else in the World the business of and as an independent power project company and for the purpose to establish, develop, install, commission, acquire, operate and maintain, either independently and / or in association with and / or through one or more subsidiary / joint venture / associate / such person or persons, non- conventional and renewable power projects including wind, solar, hydro, biomass, geothermal, tidal, wave energy and for the purpose do all such acts and deeds including acquiring and developing land, setting-up and / or arranging for necessary infrastructure like development of site and other civil construction work, laying transmission lines, setting-up sub-stations, installation, erection, commissioning of independent power projects, marketing, buying, selling and / or dealing in power.

- ii. To carry on in India or anywhere in the world the business of constructing, promoting, setting, organising, maintaining, easing, renting, occupying, running, establishing and developing Special Economic Zone, industrial estate, Industrial Park, technology park, software development park, research and development centre, analytical lab, quality control centre, communication centre, Hi-tech Engineering Parks, textile and apparel park, automobile and auto ancillaries park, chemical park, drugs & pharmaceuticals parks, light and heavy engineering park, gems and jewellery park, agriculture & food processing park, and to provide, own, operate, sell, purchase, hire, rent, contract, sub contract, export, import, buy, sell, acquire, take on lease or otherwise deal in all kinds of Infrastructure facilities including but not limiting to development of land, cities, towns, roads, seaports, airports, airways, railways, tramways, mass rapid transport system, cargo movement and cargo handling including mechanised handling system and equipment, shipyard, land development, reclamation, irrigation, water desalination plant, water treatment and recycling facilities, water supply and distribution system, solid waste management, effluent treatment facilities, power generation, transmission, distribution, power trading, transportation, distribution and supply of gas or any other form of energy, environmental protection and pollution

control, public utilities, security services, municipal services, clearing house agency and stevedoring services, telecommunication, transportation of goods and man power, travelling, transport and courier services, health related services, technical assistance, out sourcing, marketing services, hardware and software related services, cable and satellite communication networking, data transmission network, information technology network, trading and warehousing zone, factory buildings, warehouses, internal container depots, container freight station, clearing houses, trading centres, industrial and commercial activity for inland and foreign trade, school and educational institutions, hospitals, community centre, training centres, hostels, places of worship, courts, markets, canteen, restaurants, residential complexes, commercial complexes and other social infrastructures and equip the same with all or any amenities, other facilities and infrastructure, recreational and amusement zone, import and export house, and for the purpose to purchase, acquire, take on lease or in exchange or in any other lawful manner land, building, structures and to import, export, buy, sell, acquire, take on lease or otherwise deal in plant and machinery, tools equipment and to do government liaisioning work and other incidental and ancillary activities.

- iii. To carry on in India or anywhere else in the World the business of a holding, and an investment company subject to registration with appropriate authorities and to promote, invest in, acquire, hold and deal in stocks, shares - ordinary, equity, preference, with or without voting rights, debentures, debenture-stocks, bonds, obligations, registered/ unregistered depository receipts, derivatives, futures, notes, bills, insurances, promissory notes, obligations and such other securities issued by any company or any other form of limited or unlimited body, company, corporation or association, whether registered or not, carrying on the business of any nature anywhere in the world and whether secured or not and whether guaranteed or not by any Government - Federal, Central, Supreme, State, Dominion, Sovereign, Municipal, local and for the purpose either subscribe to the Memorandum and Articles of Association, purchase from secondary market, apply to the private or public issue, by private arrangement, participation in syndicates, tender, exchange or acquire and invest by any other manner or by combination of one or more methods, in one lot or in more than one phases and to time.
4. The Authorized Share Capital of the Applicant Company as on 31.08.2023 is Rs. 7,00,00,000/- divided into 70,00,000 Equity Shares of Rs.10/- each and the Issue, subscribed and Paid up Capital of the Company as on



31.08.2019 is Rs. 7,00,00,000/- divided into 70,00,000 Equity Shares of Rs.10/- each.

5. The Learned Counsel for the Applicant Company submitted that Article 37 of the Articles of Association of the empowers the Applicant Company for Capital Reduction in a general meeting in any manner permitted by law, by way of passing a Special Resolution, which is as follows;

*"The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law, --*  
*(a) its share capital;*  
*(b) any capital redemption reserve account; or*  
*(c) any share premium account."*

6. The financial summary of the Petitioner Company based on management-certified unaudited Financial Statements as of 31st August 2023 is given below:

| <b>Particulars</b>                 | <b>Amount Rs. (In Rs. Lakhs)</b> |
|------------------------------------|----------------------------------|
| <b>ASSETS:</b>                     |                                  |
| Non-Current Assets                 |                                  |
| Other Non-Current Financial Assets | 2.80                             |
| <b>Current Assets</b>              |                                  |
| Financial Assets                   |                                  |

|   |                |
|---|----------------|
| - Other Current Assets  | 2371.97        |
| - Cash and Cash Equivalents   | 240.70         |
| - Other Financial Assets  | 3,000.00       |
| <b>Total</b>  | <b>5615</b>    |
| <b>Equity And Liabilities:</b>  |                |
| Share Capital   | 700.00         |
| Reserves and Surplus  | 3776.13        |
| Non-Current Liabilities   |                |
| Financial Liabilities( Liability component of Preference Share Capital) | 864.64         |
| <b>Current Liabilities</b>  |                |
| Other Current Liabilities   | 274.71         |
| <b>Total</b>  | <b>5615.47</b> |

7. It was submitted by the Learned Counsel for the Applicant Company that the Company was engaged in the business of Production, collection and distribution of electricity.
  
8. It is submitted that the Petitioner Company wants to reduce its share capital by repaying surplus funds to its Preference shareholders. The proposed reduction of share capital will result in the reduction of the capital in excess of the requirements of in the Petitioner Company. For the sake of brevity, it is clarified that the reduction of Share Capital does not involve diminution of any liability in respect of unpaid capital of the Petitioner Company. The rights control and voting rights of the shareholders is not

prejudicially affected. There are no secured or unsecured creditors of the Company as on date and hence the interest of the Creditors of the Petitioner Company is not prejudicially affected in any way.

9. It is submitted by the Petitioner Company that no Investigation or proceedings against the Petitioner Company under sections 201 to 226 of the Companies Act, 2013 as well as sections 235 to 251 of the Companies Act, 1956 or the like are pending
10. Based on the above facts and circumstances, the Learned Counsel for the Applicant submitted that the Board of Directors in their meeting held on 06.09.2023 had recommended reduction of preference Share Capital at a premium of 20% on face Value in accordance with the terms of redemption of Preference Shares.
11. The Board of Directors of Petitioner Company had sent a notice and explanatory statement, dated 07.09.2023 for convening Extra Ordinary General Meeting of Equity Shareholders and Preference Shareholders on 11.09.2023

at 11:11 AM at Registered office of the Petitioner Company at "Oreva House", E-Third Floor, Titanium Square, Thaltej Cross Road, S.G.Highway, Thaltej, Ahmedabad GJ 380054.

12. The Petitioner Company passed a special resolution unanimously approving the reduction as required under Section 66 of the Companies Act, 2013, at the aforementioned Extra-Ordinary General Meeting wherein, Equity Shareholders holding 70,00,000 Equity Shares of Rs. 10/- each representing 100% of the Equity Share Capital and Preference Shareholders holding 10,35,000 Preference Shares of Rs. 100/- each representing 100% of the Preference Share Capital were present and voting - either in person or through their authorized representative. The Equity Shareholders and Preference Shareholders consented for redemption of preference share capital at a premium of 20% on Face Value in accordance with the terms of redemption of Preference Shares.

13. Further, the Certificate issued by the Chartered Accountant with regard to the Confirmation of Accounting Treatment as per Section 133 of the Companies Act, 2013 is also annexed as Annexure – J.
14. It is seen from the Application and the annexures filed therewith, that the shareholders of the Applicant Company have approved the scheme of Reduction of Capital in the Extra ordinary General Meeting held on 11.09.2023 by way of Special Resolution, passed at this meeting.
15. This Tribunal vide its order dated 12.10.2023, *inter alia* directed the Applicant Company to give notice of the instant application to the Ministry of Corporate Affairs through the office of the Regional Director, Registrar of Companies, Reserve Bank of India and to the Creditors of the Company and also directed to cause the publication of notice in the prescribed form. In pursuance of the same, the Applicant Company has filed the Affidavit of Service before this Tribunal on 21.11.2023 vide inward

diary no. 4573 in relation to the directions contained in the aforesaid order.

16. Consequent thereto, upon receipt of the notice, the Regional Director has submitted its observation dated 18.01.2024, wherein it has been observed that the Directors as well as the Auditors of the Company have furnished the certificate to the effect that the Company has no arrears in repayment of deposits or interest thereon. Further, it is stated in the report that the Company is regular in filing the statutory returns and that there is no complaint / prosecution / investigation / inspection is pending against the Company. Thus, it is seen that the RD has stated in its report that after going through the Scheme of Reduction of Capital, the Regional Director has decided not to make any objection to the Scheme.

17. In view of the same, this Tribunal is of the view that it is just and proper to confirm the Reduction of Share capital of the Applicant Company as resolved by the members of the Company by passing a special resolution and by way

of the consent in the form of affidavit. This Tribunal also approves the proposed form of Minutes to be registered under section 66 (5) of the Companies Act, 2013 and as given in the application is as follows:-

*“The Issued, Subscribed and Paid-up Share Capital of Ind-Infra Developers Private Limited is reduced from Rs. 17,35,00,000/- (Rupees Seventeen Crores Thirty-Five Lakh) consisting of 70,00,000 (Seventy Lakh) Equity Shares of Rs. 10/- (Rupees Ten) each and 10,35,000 (Ten Lakh Thirty-Five Thousand) 2.5% Redeemable Non-Cumulative Preference Shares of Rs. 100/- (Rupees Hundred) each to Rs. 7,00,00,000/- (Rupees Seven Crores) consisting of 70,00,000 (Seventy Lakh) Equity Shares of Rs. 10/- (Rupees Ten) each.”*

18. Notwithstanding the above, if there is any deficiency found or violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal will not come in way of action being taken, albeit, in accordance with law, against the persons concerned, directors and officials of the applicant.
19. While approving the Reduction of share capital as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of

stamp duty, taxes or any other charges, if any payment is due or required in accordance with law or in respect to any permission/ compliance with any other requirement which may be specifically required under any law. Further all compliances as are required to be done by the Applicant Company upon this order confirming reduction of share capital and security premium reserve shall be duly complied with in relation SEBI, FEMA and Income Tax laws as may be applicable.

17. This Application stands **allowed** accordingly.

**-SD-**

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-SD-**

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

Sandeep-LRA