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(ಭಾರತ ಸರ್ಕಾರದ ಉದ್ಯಮ)

ಎಚ್‌ಎಂಟಿ ಭವನ

ನಂ. 59, ಬೆಲ್ಲಾರಿ ರಸ್ತೆ, ಬೆಂಗಳೂರು - 560 032

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(भारत सरकार का उपक्रम)

एच एम टी भवन

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hmt

HMT LIMITED

(A Govt. of India Undertaking)

HMT BHAVAN

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Bangalore - 560 032, INDIA

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Website : www.hmtindia.com

Secl. S-10

23rd October, 2018

Bombay Stock Exchange Limited

Phiroze Jeejeebhoy Towers

25th Floor, Dalal Street

Mumbai - 400 001

National Stock Exchange of India Limited

"Exchange Plaza"

Bandra-Kurla Complex

Bandra (E)

Mumbai - 400 051

Dear Sir/Madam,

Sub: NCLT Order - Reduction of Share Capital

Further, to our earlier communication in the above matter, the National Company Law Tribunal ("NCLT"), Bengaluru Bench has passed the order on 16th October, 2018 confirming the reduction of paid up equity share capital of the Company to Rs.355.60 Crores from Rs.1204.09 Crores. The Company has initiated further compliances in this regard. A copy of the NCLT Order is enclosed for your information and record.

Yours faithfully

For HMT Limited



(Kishor Kumar S)

Asst. Company Secretary

Encl: As above

CIN : U29230KA1953PLC000748

पंजीकृत कार्यालय : 59, बेल्लारी रोड, बेंगलूर - 560 032 भारत Regd. Office : 59, Bellary Road, Bangalore - 560 032, INDIA

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

CP. NO. 226/BB/17

Under Section 66 of Companies Act, 2013

IN THE MATTER OF
HMT LIMITED

Order delivered on: 16th October, 2018

Coram: Hon'ble Shri Rajeswara Rao Vittanala (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

HMT LIMITED
No. 59, Bellary Road,
Bangalore-560032

... Petitioner Company

Parties Present: Mr. Naryana Swamy, Practicing Company Secretary on
behalf of the Petitioner Company
Mr. Shivayogi B Hallur, Counsel on behalf of the Objector,
LIC

Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Heard on: 15.12.2017, 12.1.2018, 12.04.2018, 26.04.2018, 7.06.2018,
24.07.2018, 30.08.2018, 17.09.2018

ORDER

1. This Company Application has been filed on behalf of the Petitioner Company under Section 66 of the Companies Act, 2013 read with National Company Law Tribunal (Procedure for Reduction Share Capital of the Company) Rules, 2016 for the purpose of confirmation of reduction of its share capital in pursuance of the Special Resolution dated 19th December, 2016 passed by the Petitioner Company.
2. The averments made in the Company Petition are briefly described hereunder:-
 - A. It is averred in the Petition that the Petitioner Company was incorporated on 7th February, 1953 initially with the Registrar Companies, Mysore. The Petitioner Company is a listed "Government Company" under the Ministry of Heavy Industries & Public Enterprises, Government of India and registered with the Registrar of Companies, Karnataka, Bengaluru with CIN: L29230KA1953PLC000748. The



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Registered office of the Petitioner Company is situated at No. 59, Bellary Road, Bangalore-560032, Karnataka, India.

- B. The main objects of the Petitioner Company as stated in its Memorandum of Association are *inter alia* to carry on the business of iron founders, mechanical engineers, manufacturers' of all types of implements, machinery, machine tools, small tools, cutting tools and hand tool makers, brass founders, metalworkers, iron and steel converters, smiths, woodworkers, metallurgists and to buy, sell, repair, convert, alter, export, import let on hire and deal in machinery, implements and hardware of all kinds. The copy of Memorandum and Articles of Association of the Petitioner Company is enclosed in the petition.
- C. The latest authorized share capital of Petitioner Company as stated in the petition is Rs. 2100,00,00,000/- divided into 123,00,00,000 equity shares of Rs. 10/- each and 8,70,00,000 Preference Shares of Rs. 100/- each. The issued, subscribed and paid up share capital is Rs. 1240,95,16,000/- divided into 120,40,91,640 equity shares of Rs. 10/- each and 36,86,000 3.5% Redeemable Preference Shares of Rs. 100/- each.
- D. The Petitioner Company submits that the company proposes to reduce its paid-up equity share capital from Rs. 12,04,09,16,400/- divided into 120,40,91,640 equity shares of Rs. 10/- each to Rs. 3,55,60,16,400/- divided into 35,56,01,640 equity shares of Rs. 10/- each and that such reduction be effected by writing off as accumulated losses of Rs. 848.49 crores standing as at 31.03.2016.
- E. It is stated in the petition that the over the past few years, the Company has incurred substantial losses in the course of its business operations. In order to clean and rationalise the Balance Sheet and improve the financial position of the Company, it is proposed to restructure the capital by reducing the paid-up share capital of the Company to the extent provided in this application.
- F. The Department of Heavy Industry (the Administrative Ministry for HMT Limited), Ministry of Heavy Industries & Public Enterprises,



Government of India, has communicated to the Company vide their Letter No. I-0501/8/2015-PE-X dated 4th November, 2016 (Copy annexed as Annexure E) that the Union Cabinet in its meeting held on 27.10.2016 had approved the restructuring of the Balance Sheet of the Company by way of reduction of paid up equity capital to the extent of the accumulated losses of the Company amounting to Rs. 848.49 Crores against the Government of India paid up equity shareholding in the Company of Rs. 1204.09 Crores. Accordingly, after reduction of share capital, the paid up share capital of the Company will be Rs. 355.60 Crores.

- G. Pursuant to the Letter No. I-0501/8/2015-PE-X, the Board of Directors of the Petitioner Company have approved the proposed reduction of share capital subject to the passing of special resolution by the shareholders at the General Meeting on 24th November, 2016. An extract of the resolution passed by the Board of Directors is enclosed in the petition.
- H. The Chartered Accountant on verification of books of accounts & documents of the Petitioner Company has certified that there are 2,729 creditors as on 30th September, 2017. The certificate of the Chartered Accountant is shown in Page 310 of the petition.
- I. It is stated in the Petition that the proposed reduction will be for the benefit of the Company as well as its stakeholders. More specifically, the reduction of share capital will not cause any prejudice to the general shareholders, creditors or other stake holders of the Company. On the other hand, the reduction of share capital will not only strengthen the intrinsic value but also the future financial stability of the Company. Further, the reduction of equity share capital does not involve extinction or reduction of any liability in respect of unpaid share capital since the equity share capital of the Company is fully paid-up. Most importantly, the reduction of equity share capital is aimed at cleansing the Balance Sheet and would result in truly representing the assets of the Company.



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- J. It is further averred that the reduction of equity share capital does not involve either the diminution of any liability, more specifically, the creditors of the Company as there is no reduction in the amount payable to any of the creditors, no compromise or arrangement is envisaged with the creditors and also there is no reduction in the security which the creditors may have in the Company.
- K. The Shareholders of the Petitioner Company have approved the proposed reduction of share capital at the Extra-Ordinary General Meeting of the Company on 19th December, 2016. An extract of the resolution is shown in Page no. 8 of the petition.
- L. Declaration has been given by the Chairman & Managing Director of the Petitioner Company that there are no arrears in repayment of any deposits or interest payable thereon and Certificate by the Chartered Accountant affirming the same has been issued. The declaration of the Managing director and the certificate of the Chartered Accountant are enclosed with the Petition.
- M. The Statutory Auditors of the Petitioner Company have verified the Accounting Treatment stated in the scheme and has given a Certificate stating that the Accounting Treatment for reduction is in conformity with Accounting Standard specified in Section 133 of the Companies Act, 2013. The copy of the certificate of the Chartered Accountant is enclosed in the petition.
3. This Tribunal vide order dated 12th January, 2018 in CP. No. 226/BB/17 directed the Petitioner Company to collect and serve notice(s) to: i) Regional Director, Southern Region; (ii) Registrar of Companies; (iii) SEBI; (iv) BSE; (v) NSE and (vi) Creditors whose value **is Rs. 5.00 lakh and above**. Further, directed to publish notice of the petition in **Hindu** (English) and **Hosa Digantha** (Kannada) stating that the next date of hearing of the petition was on 12th April, 2018.
4. The PCS for the Petitioner Company has filed an Affidavit of the Director of the Petitioner Company dated 24th January, 2018 furnishing the



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newspaper publication and evidencing that notices have been sent to the concerned authorities and the creditors.

5. The Registrar of Companies, Karnataka has filed an affidavit on behalf of Regional Director, Ministry of Corporate Affairs, South-East Region, Hyderabad has filed an Affidavit dated 23rd March, 2018 observing that while the list of creditors as on 30.09.2017 as certified by the CA B.K. Ramadhyani & Company, LLP was submitted along with the petition, it is not apparent there form as to whether there have been any objections from any of such creditors or from any stake holders against the proposed capital reduction. However, the Directorate does not have any adverse observations on the proposed scheme.
6. The Chairman and Managing Director of the Petitioner Company filed memo dated 24th April, 2018 annexing objections received from seven creditors (*viz.* TPS Agencies, Dena Bank, Garrison Securities, Automative Research Association of India, Swastik Enterprises, Ludhiana Steel Rolling Mills, LIC of India) and their representations in response to the creditors respectively. Further, the Petitioner Company submitted that the objections received from the creditors are purely commercial/business in nature and in no way will affect their interest or cause any prejudice to them with the Petitioner Company's application for reduction of share capital under Section 66 of the Companies Act, 2013. It was further averred that the proposed reduction of capital of the Petitioner Company will in fact further "secure" the debts or claims of the creditors as provided under Rule 5(3) of NCLT (Procedure for Reduction of Capital of Company) Rules, 2016 since the reduction of share capital will not only strengthen the intrinsic value but also the future financial stability of the Company.
7. The Chairman and Managing Director of the Petitioner Company filed memo dated 26th April, 2018 annexing objections received from an additional creditor i.e. M/s Intech Surface Coating Private Limited and their representations in response to the creditor respectively.
8. Life Insurance Corporation of India filed its objections dating 7.06.2018 to the instant petition averring inter alia as follows:





- a. Petitioner Company issued notice to creditors dated 18.01.2018 under Form No. RSC-3 of the Companies Act. Wherein it mentioned that, LIC is a creditor of the Company for Rs. 26,33,360/-. The LIC caused its objections to the said notice on 5.04.2018 along with statement of dues as on 31.03.2018. Also mentioned that as per the order of Estate Officer dated 07.01.2010 in case No. 07/2002 filed by LIC under Section 7 of PP Act 1971, awarded damages and interest to the tune of Rs. 3,38,10,687/- against the HMT Limited it comes to Rs. 6,10,78,541/- as on 31.03.2018/-. The c
- b. After receiving the objections from LIC, Company wrote a letter dated 20.04.2018 stating that LIC has objection for the balance of Rs. 26,33,360/- due to the Corporation as per its books of accounts as on 30.09.2017. Company has stated that, it has challenged the order of Estate Officer dated 07.01.2010 before the Hon'ble High Court of Delhi in WP(C) 1054/2013 & CM No. 1994/2013 which are pending for consideration. Company has also stated that the claim is subject to the decisions of High Court of Delhi.
- c. The Petitioner Company has challenged the estate office order before the Hon'ble High Court of Delhi in WP (C) 1054/2013 & CM No. 1994/2013 which is pending for consideration wherein the LIC filed its detailed objection to the said writ petition which may be considered as part of this objection to avoid repetition. Hence, it was submitted that the Petitioner Company cannot seek to show LIC of India as a creditor for only an amount of Rs. 26,33,360/- whereas the amount due to LIC against the Petitioner Company comes to Rs. 6,10,78,541/- as on 31.03.2018.
- d. In light of the same it was pleaded that the Company cannot seek to fix the quantum of due as the matter is subjudiced before the Hon'ble High Court of Delhi. It was prayed that the petition be dismissed in respect of the creditor.
9. It is to be mentioned that subsequent to filing the objections, LIC has not appeared before the Bench to submit any argument orally or written in nature.



10. The Chairman and Managing Director of the Petitioner Company filed memo dated 19th September, 2018 in response to queries raised by the Registry so as to satisfy the Tribunal that the debt amount or claims of the Petitioner Company are determined or discharged or secured or consent has been obtained by the Creditors. The memo detailed the representation on how the Petitioner Company would be dealing with the objections raised by the Creditors evidencing that the Tribunal should sanction the reduction of capital.

11. For the sake of brevity, a table summarising the objections raised and response as detailed by the Petitioner Company in memo dated 19th September, 2018 to the same has been reproduced below:

Sl No.	Creditor-Objector	Response
1.	TPS Agencies	There is no difference in the outstanding amount. The matter is settled. A copy of the settlement agreement is annexed to the memo dated 19 th September, 2018.
2.	Dena Bank	The Petitioner Company has paid principle loan amount of Rs. 986.50 lakhs and the management is seriously negotiating with Dena Bank for amicable settlement of interest portion due.
3.	Garrison Securities	After following due process of law, the Tractor Unit, Pinjore has already been declared closed with effect from 24.01.2018 and pending liabilities/dues out of financial package are required to be settled in a time bound manner in line with the directives of GOI. The party has to still submit bills after paying PF and ESI.
4.	Automotive Research Association of India	The reconciliation is under process and the issue is expected to be resolved soon.
5.	Swastik Enterprises	There is no difference in the amount. Subsequent to clarification to the representation of the Creditor, the party has not made any further representation.



6.	Ludhiana Steel Rolling Mills	The claim amount with respect to the Creditor Company has been settled vide an agreement dated 18.12.2017.
7.	LIC of India	The dispute is to be settled amicably through the Administrative Ministry and the same is to be communicated to the Hon'ble High Court of Delhi.
8.	Intech Surface Coating Private Limited	There is no difference in the amount. The reconciliation is under process and the issue is expected to be resolved soon.

12. Heard Shri Narayan Swamy, learned PCS appearing for the Petitioner Company and, Shivayogi B Hallur, learned counsel appearing for the objector. We have carefully perused the submissions and admission memos filed by the Petitioners and Respondents.

13. There is an objection received by the creditor-objector, LIC of India and we have gone through the representations/objections received by the Petitioner Company submitted vide memos dated 24th April, 2018 and 26th April, 2018. The representations/objections concern the payment and correctness of figures detailed by the Petitioner Company. The letter no. Sec. RD/06/17-18 dated 19th September, 2018 annexed to the memo dated 19th September, 2018 of the Chairman & Managing Director of the Petitioner Company filed with the Registry addresses the representations/objections. Further, it is important to reiterate the averment of the Petitioner Company that neither is there reduction in the amount payable to any of the creditors nor is there reduction in the security which the creditors may have in the Company. Further, the Petitioner Company has disclosed material information relating to the reasons for the reduction and necessity of the same.

14. Thus in the light of the opinion given by the Regional Director, South East Region, Hyderabad dated 27th March, 2018 and memo of the Petitioner Company dated 19th September, 2018, and after seeing Letter No. 1-0501/8/2015-PE-X dated 04th November, 2016 issued by the Under Secretary to the Government of India, Ministry of Heavy Industries and




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Public Enterprises, Department of Heavy Industry, Article 27 of the Articles of Association of the Petitioner Company which empowers the Company to reduce its Share Capital and after hearing the Counsel for Petitioner Company and after considering the reports of Regional Director and the explanation given including certificate issued by Chartered Accountant, Shri CR Deepak, Partner of B K Ramadhyani & Co. LLP bearing FRN no. 002878S dated October 13, 2017.

15. By exercising the powers conferred on this Tribunal under Section 66 of the Companies Act, 2013 read with NCLT (Procedure for reduction of share capital of Company) Rules, 2016, the Company Petition bearing **C.P. No. 226/BB/2017** is disposed of with the following directions:

- a. That the reduction of the share capital of the Petitioner Company resolved on and effected by the special resolution passed at the extraordinary general meeting of the Petitioner Company on 19th December, 2017, which resolution was in words and figures following viz:

“RESOLVED THAT pursuant to the Letter No. 1-0501/8/2015-PE-X dated 04th November, 2016 issued by the Government of India, Ministry of Heavy Industries and public enterprises, Department of Heavy Industry and pursuant to Section 66 and other applicable provisions of the Companies Act, 2013 if any, and subject to the provisions contained in Article 27 of the Articles of Association of the Company, the SEBI (Listing obligations and Disclosure Regulations) 2015, confirmation by the High Court of Karnataka/ the National Company Law Tribunal, Karnataka as may be applicable and to the consent of the lenders, SEBI, Bankers, Creditors, Depositors and other stake holders as may be necessary, the paid up share capital of the Company be reduced from 1204.09 Crores (existing capital divided into 120,40,91,640 equity shares of Rs. 10/- each fully paid up) to Rs. 355.60 Crores (Proposed capital divided into 35,56,01,640 equity shares of Rs. 10/- each fully paid up) and that such reduction be



effected by writing off accumulated losses of Rs. 848.49 Crores standing as at 31.03.2016.

RESOLVED FURTHER THAT consequential amendments be made in the clause V of the Memorandum of Association and Article 4 of Articles of Association of the Company in compliance of the Conditions contained in the Order of the High Court of Karnataka/National Company Law Tribunal as may be applicable.

FURTHER RESOLVED FURTHER THAT the Board of Directors of the Company be and are hereby authorized to file/make necessary application/petition before the appropriate authority/forum/Court seeking confirmation of the said reduction in paid up share capital of the Company and to take such necessary actions as may be required/necessary for the purposes of obtaining such confirmation and for this purpose to authorize the officers of the Company and/ or to engage/ appoint professional consultants including Practising Company Secretaries or Advocates to represent the Company before such Authority/ forum/ Court and do all such other acts, deeds and things as may be necessary or expedient to give the effect to the foregoing resolution.”

Be and same is hereby **CONFIRMED**.

That the minute set forth hereto be and is hereby approved.

SCHEDULE

Form of Minute

The capital of **HMT Limited**, is henceforth Rs. 355,60,16,400 (Rupees Three Hundred Fifty Five Crore Sixty Lakh Sixteen Thousand Four Hundred Only) divided into 35,56,01,640 equity shares of Rs. 10 each (Rupees Ten Only), reduced from Rs. 1204,09,16,400 (Rupees One Thousand Two Hundred Four Crore Nine Lakh Sixteen Thousand Four Hundred Only) divided into 120,40,91,640 equity shares of Rs. 10 (Rupees Ten Only).



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- b. That the 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.
- c. The Notice of Reduction of paid-up Equity- Share Capital shall be published by the Registrar of Companies, Karnataka, in two newspapers namely i.e. "**The Hindu-Bangalore Edition**" in English Language and Kannada Daily "**Udayavani-Bangalore Edition**" both having circulation in Bangalore within 30 days of registration.
- d. At any point of time, the creditors are free to approach the Under Secretary to the Government of India, Ministry of Heavy Industries and Public Enterprises, Department of Heavy Industries, Udyog Bhavan, New Delhi for settling their dues, if the company fails to settle the dues as per terms and conditions of the contract/agreement/negotiations with the Petitioner Company.
- e. The Petitioner Company is directed to follow the final order to be passed by the Hon'ble High Court of Delhi in WP (C) 1054/2013 & CM No. 1994/2013 which is stated to be pending.
- f. Any person shall be at liberty to apply the Tribunal in the above matter for any directions that may be necessary.
- No order as to costs.

(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL



CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

Deputy Registrar
National Company Law Tribunal
Bengaluru Bench