**Comtec Components Ltd Vs. the Assistant Registrar of**

**Comtec Components Ltd Vs. the Assistant Registrar of**

**SooperKanoon Citation** : sooperkanoon.com/1168593

**Court** : Chennai

**Decided On :** Apr-15-2014

**Judge** : R.Sudhakar

**Appellant** : Comtec Components Ltd

**Respondent** : The Assistant Registrar of

**Judgement** :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATE :

15. 04.2014 CORAM THE HONOURABLE MR. JUSTICE R.SUDHAKAR C.P. No.387 OF2013M/s. Comtec Components Ltd. No.B-1, Jains Swarnakamal 29/1, Arcot Road, Saligramam Chennai 600 093, Tamil Nadu rep. By Mr. B.K.Sarronwala, Director ...Petitioner Petition under Section 100 to 104 of the Companies Act, 1956 for confirming the reduction of share capital. For Petitioner : Mr. R.Rajesh

ORDER

This petition is filed under Section 101 (1) of the Companies Act, 1956 read with Rules 46 & 47 of the Companies (Court) Rules for confirming the reduction of share capital account by approving the minute to the effect that ".The paid up share capital of the company is henceforth Rs.5,00,000/= (Rupees Five Lakhs only) divided into 50,000 (Fifty Thousand) equity shares of Rs.10/- (Rupees Ten) each fully paid up, reduced from Rs.44,95,000 (Rupees Forty Four Lakhs Ninety five Thousand only) consisting of 4,49,500 (Four Lakhs Forty Nine Thousand Five Hundred) equity shares of Rs.10/- (Rupees Ten) each. At the date of registration of this minute the company shall extinguish 3,99,500 (Three Lakhs Ninety Nine Thousand Five Hundred) equity shares forming part of the paid-up equity share capital. 2. A copy of the last audited annual accounts as on 31.3.2013 is marked as Annexure B. It is stated that the name of the company was changed from Comtec Components Private Ltd., to Comtec Components Limited after becoming a deemed public company with effect from October 11, 1991 and, consequently a fresh certificate of incorporation consequent on the change of name was issued. The company is presently not engaged in any commercial operation. Further, the petitioner submits that the main objects of the petitioner company are set out in Clause III (A) of the Memorandum of Association, which includes manufacture, trade and deal in all types of ceramic materials and allied products, products used in telecommunication and electrical industry and also to carry out research and development programmes for electronic, electric and telecommunication, etc. The petitioner has further stated that the meeting of the Board of Directors of the Company held on September 10, 2013 resolved that in pursuance to the provisions of Sections 100 to 103 of the Companies Act and other applicable provisions and pursuant to the Articles of Association of the Company and subject to the passing of the special resolution by the shareholders at the Extra-Ordinary General Body Meeting and confirmation of the same by this Court, the paid-up share capital of the company to be reduced from Rs.44,95,000/= (Rupees Forty Four Lakhs Ninety Five Thousand only) consisting of 4,49,500 (Four Lakhs Forty Nine Thousand Five Hundred) equity shares of Rs.10/= (Rupees Ten only) each to Rs.5,00,000/= (Rupees Five Lakhs only) divided into 50,000 (Fifty Thousand) equity shares of Rs.10/= (Rupees Ten only) each by extinguishing the 3,99,500 (Three Lakhs Ninety Nine Thousand Five Hundred) equity shares an aggregating sum of Rs.39,95,000/= (Rupees Thirty Nine Lakhs Ninety Five Thousand only) by adjusting the debit balance in Profit and Loss Account representing the face value of Rs.10/= (Rupees Ten only) per share and, thereby extinguishing all 3,99,500 (Three Lakhs Ninety Nine Thousand Five Hundred only) equity shares which is lost and is unrepresented by available assets. It is further submitted that after the proposed reduction the company's equity share capital by adjusting with debit balance and Profit and Loss account, the company's financial statements will exhibit more realistic picture of the financial position of the company. Further the company has no secured or unsecured creditors and, hence, there is no question of interests of the company's creditors to be adversely affected.

3. On 21.10.2013, the Board of Directors of the petitioner company convened the Extra-Ordinary General Body Meeting of the petitioner company for the purpose of considering and passing a special resolution reduction of the equity capital. The certified copy of the Board resolution is marked as Annexure C. Accordingly Extra-Ordinary General Body Meeting was held on 21.10.2013, wherein the shareholders unanimously passed the special resolution approving the reduction of capital. The resolution passed is marked as Annexure D, which reads as follows:- ".RESOLVED THAT pursuant to section 100 to 103 of the Companies Act, 1956, and subject to confirmation by the Honble High Court of Madras, the paid-up capital capital of the company is henceforth Rs.5,00,000/= (Rupees Five Lakhs only) divided into 50,000 (Fifty Thousand) equity shares of Rs.10/- (Rupees Ten) each fully paid up, reduced from Rs.44,95,000 (Rupees Forty Four Lakhs Ninety five Thousand only) consisting of 4,49,500 (Four Lakhs Forty Nine Thousand Five Hundred) equity shares of Rs.10/- (Rupees Ten) each. At the date of registration of this minute the company shall extinguish 3,99,500 (Three Lakhs Ninety Nine Thousand Five Hundred) equity shares as set out herein below an aggregate sum of Rs.39,95,000/= (Rupees Thirty Nine Lakhs Ninety Five Thousand only) by adjusting the debit balance in profit and loss account representing the face value of Rs.10/- (Rupees Ten only) per share and thereby extinguishing all such 3,99,500 (Three Lakhs Ninety Nine Thousand Five Hundred only) equity shares which is lost and is unrepresented by available assets. 4. The resolution passed in the minutes of the said meeting are also enclosed to this petition. It is also stated by the petitioner that as the reduction of capital does not involve any cash outflow, the same will not affect the normal operations of the company or its ability to honour its commitments in the ordinary course of business. Further, the company has also no secured or unsecured creditor and therefore, there is no question of interests of the company's creditors to be adversely affected. In the light of the resolution passed unanimously approving the reduction of capital, this petition is filed before this Court for approval of the share

capital as per the resolution. The petitioner also seeks liberty of this court for dispensing with the words and reduced as contemplated in Section 102(3) of the Act.

5. The Regional Director has filed his report dated 04.04.2014 stating that the office has no representation to be made against the proposal. It is also seen that there are no secured creditors.

6. As stated in the petition and as seen from the balance sheet filed, the decision taken as reduction of share capital is purely a commercial decision to have a true reflection of the financial position of the company. Considering the fact that such move has been approved by the overwhelming majority of the shareholders, apart from the fact that such reduction does not involve any cash out flow to prejudice the rights of the creditors, I do not find any impediment in granting the relief prayed for herein. Consequently, this petition seeking approval to the resolution passed is hereby granted.

7. Clause (a) of sub Section (2) of Section 102 of the Companies Act, 1956, provides that the Court may, for any special reason, if it thinks proper so to do, direct the company to add the words and reduced to its name on the last words thereof during the period commencing from the date of the Courts order till such time as the court specifies in its order. The purpose of such inclusion is only to put on notice the investing public the state of affairs of the company and that it has gone for reduction of the capital. Taking note of the circumstances warranting the course for reduction of capital, there being no cash outflow or for any creditor to object, the procedure laid down under Section 100 fully complied with, there is no impediment in granting the prayer confirming the reduction of capital as resolved by the company in its special resolution dated 21.10.2013 confirmed so as to be binding on all the shareholders and creditors of the petitioner company. The words and reduced pursuant to the reduction approved, is dispensed with. In the light of the above-said facts, the prayer sought for herein is granted.

9. Consequently, the petition is ordered to the effect that approving the resolution passed on 21.10.2013 for the reduction of the share capital to Rs.5,00,000/= (Rupees Five Lakhs only) divided into 50,000 (Fifty Thousand) equity shares of

Rs.10/- each fully paid up and dispensed with the words and reduced pursuant to the reduction. 15.04.2014 Index : Yes / No Internet : Yes / No GLN R.SUDHAKAR, J.

GLN C.P. NO.387 OF201315.04.2014