

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COURT-IV

12. CP/283(MB)2023

CORAM:

MS. ANU JAGMOHAN SINGH
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **01.11.2023**

Name of the Party: Black Box Limited

Section 66(1) of Companies Act, 2013

ORDER

1. Mr. Ahmed Chunawala, Ld. Counsel for the Petitioner present.
2. Petition Admitted.
3. Petition is fixed for hearing on 26th March, 2024.
4. Learned Counsel for the Petitioner submits that Petitioner Company is authorized to undertake reduction of share capital under Article 70 of the Articles of Association to undertake reduction of share capital, pursuant to which the Petitioner Company shall reduce the balance in the Securities Premium Account of the Company from Rs. 2,23,11,02,362 (Rupees Two Hundred and Twenty Three Crores Eleven Lakh Two Thousand Three Hundred and Sixty Two Only) to Rs. 1,37,80,07,034 (One Hundred and Thirty Seven Crores Eighty Lakh Seven Thousand and Thirty Four Only) and Capital Reserve account of the Company from Rs. 22,63,86,525 (Rupees Twenty Two Crores Sixty Three Lakh Eighty Six Thousand Five Hundred and Twenty Five Only) to NIL and such reduction would be effected by writing off the debit balance in Profit and Loss account (i.e. Accumulated Losses) of Rs. 1,07,94,81,853 (Rupees One Hundred and Seven Crores Ninety Four Lakh Eighty One Thousand Eight Hundred and Fifty Three Only) based on the audited standalone financial statements of the Company for the year ended March 31,



2022.” The said Special Resolution was unanimously approved by the Petitioner Company in its Extra Ordinary Through a meeting held on November 11, 2022, the Board of Directors, approved the Proposed Reduction of the share capital and it was resolved as under:

“RESOLVED THAT pursuant to Section 66, Section 52 and other applicable provisions, if any, of Companies Act, 2013 (“the Act”) and rules, circulars, notifications and orders made (along with any statutory modifications, re-enactments or amendments thereof) thereunder, read with Article 70 of the Articles of Association of the Company and subject to approval by the Hon’ble National Company Law Tribunal at Mumbai (“the NCLT”) and subject to all such other approvals, consents, permissions and sanctions as may be required to be obtained from appropriate authorities and creditors, and such conditions as may be imposed while granting such approvals, consents, permissions and sanctions, the consent of the members of the Company, be and is hereby accorded to the Scheme of Reduction of Share Capital (the “Scheme” or “Proposed Reduction”) by way of reduction to the Securities Premium Account of the Company from Rs. 2,23,11,02,362 (Rupees Two Hundred and Twenty Three Crores Eleven Lakh Two Thousand Three Hundred and Sixty Two Only) to Rs. 1,37,80,07,034 (One Hundred and Thirty Seven Crores Eighty Lakh Seven Thousand and Thirty Four Only) and Capital Reserve account of the Company from Rs. 22,63,86,525 (Rupees Twenty Two Crores Sixty Three Lakh Eighty Six Thousand Five Hundred and Twenty Five Only) to NIL and such reduction would be effected by writing off the debit balance in Profit and Loss account (i.e. Accumulated Losses) of Rs. 1,07,94,81,853 (Rupees One Hundred and Seven Crores Ninety Four Lakh Eighty One Thousand Eight Hundred and Fifty Three Only) based on the audited standalone financial



statements of the Company for the year ended March 31, 2022.”

“RESOLVED FURTHER THAT subject to the approval of the NCLT, Mumbai Bench and all other approvals from any other appropriate authorities as may be required, the consent and approval of the members of the Company be and is hereby accorded to the reduction of the Securities Premium account of the Company by Rs. 85,30,95,328 (Rupees Eighty Five Crores Thirty Lakh Ninety Five Thousand Three Hundred and Twenty Eight Only) and reduction of Capital Reserve account of the Company by Rs. 22,63,86,525 (Rupees Twenty Two Crores Sixty Three Lakh Eighty Six Thousand Five Hundred and Twenty Five Only). Accordingly, the Securities Premium account of the Company after such reduction shall be Rs. 1,37,80,07,034 (One Hundred and Thirty Seven Crores Eighty Lakh Seven Thousand Thirty Four Only) and Capital Reserve account of the Company after such reduction shall be NIL.

5. **Nature of Business:**

The main object of the Petitioner Company is to carry on the business of To carry on the business of manufacturers, dealers, importers, exporters, assemblers and fabricators, repairers, maintainers, owners and operators of all kinds of telecommunication equipment, including terminal equipment, exchange equipment, transmission lines and equipment of all kinds, used to provide voice, text, data or image communication services, including but not limited to telephone instruments of all kinds, switching exchanges of all kinds such as public switching exchanges, private exchanges, radar and satellite communication equipment, teleprinters, digital telemetering telecontrol systems, video terminals, computers, other subsystems components and parts thereof including basic components such as valves, transistors, condensers, coils, magnetic materials, microwave



components capacitors, integrated circuits, diodes, registers, electronic control instruments, plastic PVC and resin components, electrical wires, cables, lugs, switches and electrical and wireless sets, magnetic materials and microwave components; and to own, hire or take on lease, hire out or provide on lease communication and information services and any equipment required for such services whether for providing voice, text, data, or image services, including carriers for such purposes including cables and networks whether optical or electrical, microwave or satellite linkages or any other medium that may be used for such purposes; to provide consultancy services in relation to these activities mentioned therein.

6. The Capital Structure of the Company as of the Petitioner Company as on March 31, 2022 is as under :-

Particulars	Amount in Rs.
Authorised Share Capital	
4,50,00,000 equity shares of Rs. 10/- each	45,00,00,000
50,00,000 cumulative / non-cumulative redeemable preference shares of Rs. 100/- each	50,00,00,000
50,00,000 Convertible preference shares of Rs. 100/- each	50,00,00,000
Total	145,00,00,000
Issued, Subscribed and fully paid-up share capital	
3,28,12,854 equity shares of Rs. 10/- each fully paid up	32,81,28,540
Total	32,81,28,540

Subsequently, the Company on April 20, 2022 has sub-divided its equity shares having face value of Rs. 10/- each, fully paid up into five equity shares having face value of Rs. 2/- each fully paid up.

Further, the Company has issued total 38,40,340 equity shares, comprising of 36,73,415 equity shares of Rs. 2/- each pursuant to warrant conversion and 1,66,925 equity shares of Rs. 2/- each fully



paid up upon exercise of ESOP options, in the financial year ending March 31, 2023;

7. Authorised and paid-up share capital of the Petitioner Company as on March 31, 2023 is as under :-

Particulars	Amount in Rs.
Authorised Share Capital	
22,50,00,000 equity shares of Rs. 2/- each	45,00,00,000
50,00,000 cumulative / non-cumulative redeemable preference shares of Rs. 100/- each	50,00,00,000
50,00,000 Convertible preference shares of Rs. 100/- each	50,00,00,000
Total	145,00,00,000
Issued, Subscribed and fully paid-up share capital	
16,79,04,610 equity shares of Rs. 2/- each fully paid up	33,58,09,220
Total	33,58,09,220

Subsequently there is no change in the authorized & issued share capital of the Petitioner Company till date of filing of this Petition.

8. The Learned Counsel for the Petitioner Company submits that the Reasons for Reduction of Capital of the Scheme is as under:
- i. The Company's financial statement currently reflects Accumulated Losses (debit balance of Profit & Loss Account) to the tune of Rs.1,07,94,81,853 (Rupees One Hundred and Seven Crore Ninety Four Lakh Eighty One Thousand Eight Hundred and Fifty Three Only) based on audited standalone financial statements for the year ended March 31, 2022. The present issued, subscribed and paid-up share capital of the Company is Rs. 33,58,09,220 (Rupees Thirty Three Crore Fifty Eight Lakh Nine Thousand Two Hundred and Twenty only) comprising of 16,79,04,610 Equity Shares of Rs. 2/- each. Accumulated Losses have substantially wiped off the value represented by the



Share Capital. This has given to the need for readjustment of capital reserves and securities premium in its books of accounts.

- ii. In order to re-align the relation between capital and assets; and to accurately and fairly reflect the assets and liabilities of the Company in its books of accounts; and for better presentation of the financial position of the Company, the Board of Directors has decided to write off the Accumulated Losses against Capital Reserve Account and Securities Premium Account in accordance with the provisions of Sections 66 read with Section 52 of the Companies Act, 2013, and National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016 and other applicable provisions.
 - iii. Hence, the Board of Directors believe that in order to present a fair position of the affairs of the Company, the most practically and economically efficient option available to the Company would be to utilize the balance lying in the Capital Reserve Account and Securities Premium Account to the extent of writing of the Accumulated Losses of the Company, subject to the confirmations/ sanctions of the requisite majority of the Shareholders of the Company and the NCLT and such other appropriate authority, as may be applicable
9. As per Articles of Association of the Petitioner Company, Petitioner Company is authorized to reduce the share capital of the Company in the manner provided in Section 66 of the Companies Act, 2013. The Article 70 of the Articles of Association to undertake reduction of share capital. Extract of Article 70 of the Articles of Association is read as under:

“The Company may from time to time by Special resolution reduce its share capital in any way authorised by law and in particular may pay off any paid-up share capital upon the footing that it may be called up again or otherwise and may if



and so far as is necessary alter its Memorandum by reducing the amount of its share capital and of its shares accordingly.”

10. Creditors of the Company is as under:-
- i. As on 17th September, 2023, there are 2 (Two) Secured Creditors amounting to Rs. 26,07,61,843/- (Rupees Twenty Six Crores Seven Lakhs Sixty One Thousand Eight Hundred and Forty Three Only) of the Petitioner Company.
 - ii. As on September 17, 2023, there are 322 (Three Hundred and Twenty Two) Unsecured Creditors amounting to Rs. 77,06,34,106/- (Rupees Seventy Seven Crores Six Lakhs Thirty Four Thousand One Hundred and Six Only) of the Petitioner Company.
11. Within seven (7) days from the date of receipt of the Certified copy of the order, the Petitioner Company is directed to serve notice in Form No. RSC-3 of the hearing of the Petition upon Creditors of the Petitioner Company pursuant to Section 66(2) of the Companies Act, 2013 with a statement that they may submit their representations, if any, to the Tribunal and copy of such representations shall simultaneously be served upon the Petitioner Company within a period of three months from the date of receipt of the notice and a copy of such representations/ objections shall simultaneously be served upon the Petitioner Company, failing which it shall be presumed that such creditors of the Petitioner Company have no objection to the proposed capital reduction.
12. Within seven (7) days from the date of this order, the Petitioner Company is directed to serve notices in Form No. RSC-2 of the hearing of the Petition along with copy of Petition upon:-
- (i) The Ministry of Corporate Affairs;
 - (ii) The concerned Registrar of Companies;
 - (iii) Central Government through the concerned Regional Director;
 - (iv) The concerned Income Tax Authority and



(v) Goods and Service Tax Authority

13. The Petitioner Company is directed to serve the notices by Registered Post-AD/ Speed Post and email with a direction that they may submit their representations to the Tribunal, if any, *within a period of three (3) 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 the authorities have no objection to the proposed reduction of equity share capital as per Rule 3 of the National Company Law Tribunal (Procedure for reduction of Share Capital of Company) Rules, 2016.*
14. Within seven (7) days from the date of receipt of the Certified copy of the order, the Petitioner Company to publish notice in FORM No. RSC-4 of the date of hearing the Petition in “*Business Standard*”, in English language and translation thereof in ‘Navshakti’, in Marathi Language, both having circulation in Mumbai. The notice shall state the proposed reduction in Equity Shares and that the objection, if any, shall be filed within three months the date of publication of the notice with a copy served on the Petitioner Company.
15. Form of Minutes

“The issued, subscribed, and paid up equity share capital of Black Box Limited is Rs. 32,81,28,540 (Thirty Two Crores Eighty One Lakhs Twenty Eight Thousand Five Hundred and Forty) divided into 3,28,12,854 equity shares of Rs. 10/- each.

The Securities Premium Account is henceforth ‘1,37,80,07,034/-’ as reduced from INR 2,23,11,02,362/-, Capital Reserve is henceforth ‘NIL’ as reduced from INR 22,63,86,525/- and the Profit and Loss Account is henceforth ‘NIL’ as increased entirely from negative INR 1,07,94,81,853/- as on 31st March 2022”.



The share capital of the Company as on the date of the filing this petition is as follows: "The issued, subscribed, and paid-up equity share capital of Black Box Limited is Rs. 33,58,09,220 (Thirty Three Crores Fifty Eight Lakhs Nine Thousand Two Hundred and Twenty) divided into 16,79,04,610 equity shares of Rs. 2/- each."

16. The Petitioner Company shall submit to the Tribunal, within seven days of the expiry upto which representation or objections were sought, the representation or objections so received along with responses of the Petitioner Company thereto.
17. Petitioner Company shall, as soon as may be, but not later than seven days from the date of issue of such notices, file Affidavit of service confirming the dispatch and publication of the notice.
18. The representations or objections, if any, in response to the Notices issued above shall be made within the prescribed time limits.
19. The Petitioner to file in the Registry, an Affidavit of Service within 30 days from the date of this Order as per Rule 3(5) in Form No. RSC-5 of the National Company Law Tribunal (Procedure for reduction of Share Capital of Company) Rules, 2016.

Sd/-

ANU JAGMOHAN SINGH
Member (Technical)

/Dubey/

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 13.12.2023

R. S. Sonawale
Deputy Registrar 13.12.2023

National Company Law Tribunal Mumbai Bench
(D-19112) 13/12/2023

