(2013) 11 KAR CK 0110

In the Karnataka High Court

Case No : Company Petition No. 174 of 2013

Smartplay Technologies (India) Private Limited APPELLANT

Vs

Nil RESPONDENT

Date of Decision : 29-11-2013

Acts Referred:
Companies Act, 1956 — Section 100, 104

Citation : (2013) 11 KAR CK 0110

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : A. Murali, for J. Sagar Associates, for the Appellant;

Final Decision : Allowed

Judgement

Anand Byrareddy, J.—The present petition is filed seeking confirmation of the conversion of 70,260 shares of Rs. 10/- each into 70,260 redeemable preference shares of Rs. 10/- each carrying a dividend of 1% and redeemable within a period of 10 years as required u/s 100 of the Companies Act, 1956. The shareholders of the petitioner-Company, vide a special resolution passed at an Extra-ordinary General meeting of the company held on 19.07.2013, approved the conversion of 70,260 equity shares of the company into redeemable preference shares. The resolution is at Annexure-"D" to the petition. It is the contention of the petitioner that the conversion of the share capital would not involve any financial outlay on the part of the petitioner-company and would not affect the interest of the creditors of the petitioner-company and that this court, by its order dated 23.10.2013 in Company Application No. 1639/2013, had dispensed with the procedure of settling the list of creditors and had directed the petitioner-company to take out notice by way of paper publication. The petitioner has duly had the advertisement published in the newspapers and the same is placed on record along with a memo.

2. This court is satisfied that there is due compliance with the statutory requirements and there is no impediment in the petition being accepted and

sanction being accorded. The special resolution passed in the Extra-ordinary General Meeting of the petitioner-company is enclosed to the petition, which reads as follows:

RESOLVED THAT subject to confirmation by the Hon''ble High Court of Karnataka, the existing paid-up equity share capital of Rs. 7,02,600/- (Rupees Seven Lakh Two Thousand Six Hundred Only) comprising of 70,260 (Seventy Thousand Two Hundred and sixty) equity shares of Rs. 10/- (Rupees Ten Only) each will be converted at par into 70,260 (Seventy Thousand Two Hundred and Sixth) Redeemable Preference Shares of Rs. 10/- (Rupees Ten Only) each, by extinguishing the existing 70,260 (Seventy Thousand Two Hundred and Sixty) equity shares of Rs. 10/- (Rupees Ten Only) and Redeemable '' Preference Shares for the same value being issued to the equity shareholders.

RESOLVED FURTHER THAT the conversion of the Company''s paid-up equity share capital into redeemable preference shares is subject to the following terms and conditions:

a) The Resolution for reduction is approved by the members of the Company and confirmed by the Hon''ble High Court of Karnataka.

b) Upon the High Court confirming the reduction and Registrar of Companies registering the same, the Company shall extinguish the existing paid-up equity share capital and the same shall reflect as preference share capital of the Company.

c) On extinguishment of the Paid-up Equity share Capital as provided in (b) above the existing issued, subscribed and paid-up equity share capital of the company shall stand reduced to the extent of the face value of the equity shares so extinguished.

RESOLVED FURTHER THAT the Company be and is hereby authorized to apply to the High Court of Karnataka seeking its sanction to the above reduction in terms of Sections 100 to 104 of Companies Act, 1956 and other applicable provisions of the act and do all such act, deeds, and things as may be necessary for obtaining the order of the Hon''ble High Court of Karnataka confirming the reduction of capital in terms of this resolution.

RESOLVED FURTHER THAT for the purposes of giving effect to the conversion of the paid-up share capital of the company as aforesaid, the Board of Director of the Company are hereby authorized to agree to any modifications or conditions that may be imposed or stipulated by the Court/Tribunal or any ''other authority and to take all necessary steps and actions as the Board may in their discretion deem fit for the purposes of ensuring that the reduction is completed in a fair and equitable manner.

RESOLVED FURTHER THAT for the purpose of giving effect to the above resolution, the Board be and is hereby authorized to do and perform all such acts, deeds, matters and things as it may in its absolute discretion deem necessary or desirable and furnish such clarification and details that may arise in regard to the subject matter of the above resolution as it may in its absolute discretion deem fit and proper.

The above resolution is found to be in order and is duly approved by this Court.

The minutes in the form, reads as under:

The paid-up share capital of the company shall henceforth be Rs. 7,02,600/- (rupees seven lakh two thousand six hundred only) comprising of 70,260 (Seventy thousand two hundred and sixty) redeemable preference shares of Rs. 10/- (rupees ten ''only) each, redeemable within a period of ten years and carrying a dividend rate of 1% (one percent).

The minutes set forth hereinabove stand approved.

Accordingly, the petition is allowed. The order including the minutes shall be delivered to the Registrar of Companies within twenty one days from the date of receipt of a certified copy of this order. The notice of reduction, conversion of share capital, paid-up equity share capital into redeemable preferential shares, shall be published in the English daily - "The Hindu" Bangalore Edition and the Kannada daily "Udaya Vaani", Bangalore Edition within fourteen days from the date of registration of the order and minutes by the Registrar of Companies and a copy thereof shall be filed by the petitioner with the Registry.

