



TRIVENI TURBINE LIMITED

CORPORATE OFFICE

8th Floor, Express Trade Towers, 15-16, Sector-16A, Noida - 201301, U.P., India

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By E-filing

REF: TTL: SE: 10/03

Date: October 24, 2024

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|--|--|
| BSE Limited P.J. Tower, Dalal Street, Fort, Mumbai - 400 001 Thru: BSE Listing Centre | National Stock Exchange of India Limited Exchange Plaza, Bandra-Kurla Complex, Bandra (E), Mumbai - 400 051 Thru: NEAPS |
| STOCK CODE: 533655 | STOCK CODE: TRITURBINE |

Dear Sir/Ma'am,

Subject: Intimation pursuant to Regulation 30 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI Listing Regulations")- NCLT order for reduction of share capital of Triveni Energy Solutions Limited, a Wholly Owned Subsidiary of the Company.

In furtherance to our communication dated May 16, 2023 and pursuant to Regulation 30 of the SEBI Listing Regulations, we wish to inform you that Hon'ble National Company Law Tribunal, Bengaluru Bench, has vide its order dated October 22, 2024 (Ref: C.P No.92/BB/2023) has approved the reduction of share capital of Triveni Energy Solutions Limited, a Wholly Owned Subsidiary of the Company, from INR 16,00,00,000 (Rupees Sixteen Crores) consisting of 1,60,00,000 equity shares of INR 10/- each to INR 8,00,00,000 (Rupees Eight Crores) consisting of 80,00,000 equity shares of INR 10/- each by reducing 80,00,000 equity shares of INR 10/- each for a total consideration of INR 44,00,00,000 (Rupees Forty Four Crores).

The Copy of the Order was received by the Company on October 23, 2024 and the same is enclosed herewith for your reference.

You are requested to kindly take the above information on record.

Thanking you,

Yours' faithfully

For Triveni Turbine Limited

Pulkit Bhasin

Company Secretary

M. No. A27686

Encl: A/a

Regd Office : A-44, Hosiery Complex, Phase-II Extn., Noida - 201 305 (U.P.)

CIN : L29110UP1995PLC041834

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Through Physical Hearing/ VC Mode (Hybrid))

C.P No.92/BB/2023

Application under Section 66 of the Companies Act, 2013
Read with the National Company Law Tribunal (Procedure
For Reduction of share Capital of Company), Rules 2016

IN THE MATTER OF:

Triveni Energy Solutions Limited,
12A, Peenya Industrial Area,
Bengaluru - 560058

--- Petitioner Company

Order delivered on: 22nd October, 2024

CORAM: 1. Hon'ble Shri K. Biswal, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

PRESENT:

For Petitioner : Shri Nandish Patel
For ROC/RD : Shri.Vaibhav
For IT Dept. : Shri Ganesh R. Ghale

O R D E R

Per: Manoj Kumar Dubey, Member (Technical)

1. This company petition has been filed on 30.07.2023 by **Triveni Energy Solution Limited** (hereinafter referred as 'Petitioner Company') under Section 66 of the Companies Act, 2013, read with the National Company Law Tribunal (Procedure for Reduction of Share Capital of Company) Rules, 2016 seeking for the reduction of Share capital resolved on 22nd May 2023, by the special resolution as set out in Para-11 of the petition.

2. The Brief facts of the petition are as follows:

2.1 The Petitioner Company was originally incorporated on 28.05.2010 under the name of GE Triveni Limited under the Companies Act, 1956. Subsequently, the name of the Petitioner Company was changed from GE Triveni Limited to Triveni Energy Solutions Limited on 21.10.2021,



with the Registrar of Companies, Karnataka with Corporate Identification Number U29252KA2010PLC053834. The registered office of the Petitioner Company is situated at 12A Peenya Industrial Area, Bengaluru- 560058. The copy of the Certificate of Incorporation, Memorandum of Association and Articles of Association has been placed on record as Annexures A & B to this Petition. The main objects of the Petitioner Company interalia are as under:

- a) *To design, manufacture, assemble, field test, sell, distribute, engineer, alter, improve, promote, market and deal in all kinds of steam turbines for power generation in industrial and utility projects (ie., projects other than geothermal and solar thermal), used to drive generators and to provide after-market services exclusively for such steam turbines.*
- b) *To design, manufacture, assemble, field test, sell, distribute, engineer, alter improve, promote, market and deal in spare parts for all kinds of steam turbines used for power generation.*

2.2 It is stated that **Article No.58** of Articles of Association empowers the Petitioner Company to reduce its Capital. The extracts of the said Article is given hereunder:

“58. The Company may, by special resolution, reduce in any manner and with, and subject to, any incident authorized and consent required by law:

- (i) its share capital;*
- (ii) any capital redemption reserve account; or*
- (iii) any securities premium account”*

2.3 The Petitioner Company has made the following prayers;

- (a) That the reduction of share capital resolved on May 22, 2023, by the special resolution as set out in Para-11 of the petition be confirmed;*
- (b) That to this end, all directions necessary and proper be made and given;*
- (c) That the proposed minute at Annexure-K be approved and*
- (d) Notwithstanding the reduction as mentioned above, the Petitioner Company shall not be required to add “and reduced” as a suffix to its name and the Petitioner Company shall continue in its existing name.*
- (e) That such further or other orders be made in the premises as to the Tribunal shall seem fit in the interest of justice and equity.*

2.4 The Present authorised, issued and paid-up Share Capital of the Petitioner Company as on 31.03.2023, is as follows;



| | |
|--|---------------------|
| Authorized Capital | Amount (INR) |
| 2,50,00,000 equity shares of INR.10/- each | 25,00,00,000 |
| Issued, Subscribed and Paid-Up Capital | Amount (INR) |
| 1,60,00,000 equity shares of INR.10/- each fully paid up | 16,00,00,000 |

2.5 The Board of Directors of the Petitioner Company at its meeting held on 25th April 2023 resolved to reduce the equity share capital of the Petitioner Company from INR 16,00,00,000 consisting of 1,60,00,000 equity shares of INR 10/- each to INR 8,00,00,000 consisting of 80,00,000 equity shares of INR 10/- each by reducing 80,00,000 equity shares of INR 10/- each for a total consideration of INR 44,00,00,000.

2.6 Pursuant to the Board Meeting dated 25.04.2023, the Extraordinary General Meeting was held on 22.05.2023, wherein, the Petitioner Company vide Special Resolution, have unanimously approved the proposed reduction, which, interalia, reads as follows:

“RESOLVED THAT pursuant to the provisions of Section 66 of the Companies Act, 2013 including any statutory amendments or re-enactments thereof and read with the National Company Law Tribunal (Procedure for Reduction of Share Capital) Rules, 2016 (NCLT RSC Procedure Rules) and other applicable provisions of the National Company law tribunal Rules 2016 and pursuant to Article 58 of the Articles of Association of the company and subject to the confirmation of the National Company Law Tribunal or any other competent authority as may be specified in this regard it was decided to reduce the issued, subscribed and paid-up equity share capital of the company from Rs.16,00,00,000/- consisting of 1,60,00,000 equity share of Rs.10/- each fully paid to Rs.8,00,00,000/- consisting of 80,00,000 equity shares of Rs.10/- each fully paid up, each by cancelling and extinguish 80,00,000 issued, subscribed and paid-up equity shares of Rs.10 each held by the holding company i.e., Triveni Turbine Limited and its nominees, and paying off in cash against such cancelled shares a fair value of Rs.55/- per share, comprising of Rs.10/- by way of refund of paid-up value of each such share and Rs.45/- per share by way of premium, aggregating to Rs.44 crore. The distinctive numbers of the shares proposed to be so cancelled are as detailed below:

| Sl. No. | Name of the Shareholder | Folio No. | Certificate No. | Distinctive number to be cancelled | Number of shares |
|---------|-------------------------------|-----------|-----------------|------------------------------------|------------------|
| 1. | Triveni Turbine Limited (TTL) | 9 | 1 8 | 1-49940 50001-1000001 | 49940 950001 |



| | | | | | |
|----|-----------------|----|----|-------------------|----------------|
| | | | 11 | 5000001-8000000 | 3000000 |
| | | | 13 | 9500001-11000000 | 1500000 |
| | | | 15 | 13500001-16000000 | 2500000 |
| | | | | | <u>7999941</u> |
| 2. | Nominees of TTL | 2 | 21 | 49941-49949 | 9 |
| | | 3 | 3 | 49951-49960 | 10 |
| | | 4 | 4 | 49961-49970 | 10 |
| | | 5 | 5 | 49971-49980 | 10 |
| | | 6 | 17 | 49986-49990 | 5 |
| | | 10 | 16 | 49981-49985 | 5 |
| | | 7 | 19 | 49996-50000 | 5 |
| | | 11 | 18 | 49991-499995 | 5 |
| | | | | | <u>59</u> |
| | | | | | 8000000 |

RESOLVED THAT pursuant to the provisions of Section 66 and other applicable provisions, if any, of the Companies Act, 2013, Article 58 of the Articles of Association of the Company and subject to the sanction/confirmation by the NCLT at Bengaluru and other authorities, if any, the Issued, Subscribed and paid up equity share capital of the Company be reduced from 16,00,00,000/- comprising of 1,60,00,000 equity shares of Rs.10/- each fully paid up to Rs.8,00,00,000/- comprising of 80,00,000 equity shares of Rs.10/- each fully paid up, in the manner and subject to terms and conditions.

- i. 80,00,000 equity shares of Rs.10/- each held by the Holding company, Triveni Turbine Limited, shall be paid off and cancelled/extinguished;*
- ii. The Company shall pay within reasonable time and without insisting on any application or request in any form from the shareholders, the sum becoming due to them in respect of their equity shares which are to be cancelled/extinguished as above, computed at the rate of Rs.55/- Per share, comprising of Rs.10/- by way of refund of paid-up value of each such share and Rs.45 per share by way of premium.*
- iii. Immediately upon above reduction of capital becoming effective, the existing share certificate pertaining to shares so cancelled/extinguished, shall stand automatically cancelled and become non-tradable security without any surrender such share certificates to the Company,*
- iv. For the purpose of determining the eligibility of shareholders to above reduction of capital and the number of equity shares to be cancelled/extinguished, the shares registered in each folio will be considered as separate holding and the number of shares appearing in each folio as per the records of the Company as on 25th April 2023 (being the date of the Board Meeting) will be the determining factor.*



- 2.7** It is submitted that there are no Secured Creditors and has only around 11-12 Unsecured Creditors as on 31st May 2023. The list of Secured and Unsecured Creditors in the Petitioner Company certified by two Directors of the Petitioner Company and a Certificate by the Auditors confirming the correctness of the above list of Secured and Unsecured Creditors as per the records of the Petitioner Company is annexed as Annexure-L & M to the petition.
- 2.8** It is submitted that the Petitioner Company has not obtained any deposit from the public therefore there are no arrears in repayment of any deposits or interest payable thereon as on the date of present this petition. The declaration made by the Directors that there are no arrears in repayment of any deposits or interest payable thereon and a Certificate by the Auditor verifying that there are no arrears in repayment of any deposits or interest payable thereon is annexed as Annexure N & O to the petition.
- 2.9** A certificate is issued by Walker Chandiok and Co. LLP of the Petitioner Company stating that the reduction of the share capital is in conformity with the accounting standards specified under Section 133 of the Act same is attached as Annexure-P to the Petition.
- 2.10** It is submitted that there is no winding up application is pending against the Petitioner Company.
3. When the C.P was listed on 07th August 2023, following order was passed:
1. *Heard the learned Counsel for the Petitioner.*
 2. *Issue notice to the Regional Director, Hyderabad, ROC, Karnataka and Creditors of the Petitioner Company. Registry is directed to prepare it on the aforesaid parties along with a copy of the petition and other material documents through e-mail as well as speed post and to file an affidavit of Service along with tracking reports in the Registry well before the next date of hearing. Upon receipt of the notice, Respondents are directed to file reply within three weeks, thereafter, after duly serving the copy of the otherside. Further the Petitioner is also permitted to cause paper publication in "The Hindu", English Daily and translation thereof in "Kannada Prabha" Kannada Daily, Bengaluru Edition and to file proof of publication in the Registry within three weeks.*
 3. *List the case on 05.10.2023*



4. In compliance to the said order, the Petitioner Company has filed Compliance Affidavit vide Diary No. 4599, dated 05.09.2023. Along with the Affidavit, the Petitioner Company has also attached the postal receipts of notices sent to the Regional Director, Hyderabad, Registrar of Companies, Bengaluru and Unsecured Creditors of the Company and the copies of paper publications of the advertisement made for the proposed reduction. Further, the Petitioner Company has filed a Memo, vide Dy.No.6173, dated 11.12.2023 stating that no representation/objections have been received by any of the Unsecured Creditors of the Company from the date of receipt of the said notice and publication opposing/objection to the scheme of reduction of the share capital of the Company.

5. The Registrar of Companies, Karnataka, Bengaluru and the Regional Director, South Eastern Region, Hyderabad have filed a Common Report vide Diary No.5936, dated 24.11.2023 by *interalia*, observing as under:
 - a. **Para 4:** The petition is filed for reduction of paid up capital of the Company seeking sanction of reduction of the equity share capital from INR 16,00,00,000 consisting of 1,60,00,000 equity shares of INR 10/- each to INR 8,00,00,000 consisting of 80,00,000 issued, subscribed and paid-up equity shares of INR 10/- by way of refund the paid up value of each such share and INR 45 per share by way of premium aggregating to INR 44,00,00,000.
 - b. **Para-5:** Pursuant to the provisions of Section 66 of the Companies Act, 2013 including any statutory amendments or re-enactments thereof and read with the National Company Law Tribunal (Procedure for Reduction of Share Capital) Rules, 2016 and other applicable provisions of the National Company Law Tribunal Rules 2016 (NCLT Rules) and pursuant to Article 58 of the Articles of Association of the company and subject to the confirmation of the National Company Law Tribunal or any other competent authority as may be specified in this regard it was decided to reduce the issued, subscribed and paid-up equity share capital of the company from Rs.16,00,00,000/- consisting of 1,60,00,000 equity share of Rs.10/- each fully paid to Rs.8,00,00,000/- consisting of 80,00,000 equity shares of Rs.10/- each fully paid up each by cancelling and extinguish 80,00,000 issued, subscribed and paid-up equity shares of



Rs.10 each held by the holding company i.e., Triveni Turbine Limited and its nominees, and paying off in cash against such cancelled shares a fair value of Rs.55/- per share, comprising of Rs.10/- by way of refund of paid-up value of each such share and Rs.45/- per share by way of premium, aggregating to Rs.44 crore

- c. **Para 6:** The Board of Directors of the Company at their meeting held on 25.04.2023 had considered and approved the proposal for the reduction of paid-up share capital of the company.
- d. **Para 7:** The Company have approved the proposal for reduction of paid-up capital by passing resolution vide Extra Ordinary General Meeting held on 22.05.2023. The resolution for the present capital reduction was filed by the Petitioner Company in Form No. MGT-14 vide SRN: AA2696060 and the said form was approved by this office.
- e. **Para-8:** The Petitioner Company has submitted Certificate from the Directors dated 08.06.2023 certifying that the Statement of Creditors as on 31.05.2023, a sum of Rs.4,81,20,064.09/- is payable towards Unsecured Creditors. This is in compliance with rule 2 (a) of NCLT Rules. Further, in the petition, the Company stated that it does not have any Secured Creditors.
- f. **Para-9:** As per Rule 2 (b) of NCLT (Reduction of share capital) Rules, certificate from the Auditor of the Company to the effect that the list of Creditors is correct as per the records of the Company has not been provided by the Petitioner.
- g. **Para-10:** Consent/NOC may be required from individual unsecured Creditors subject to the requirements of Section 66 (3) of Companies Act, 2013 read with Rule 3 (6) of National Company Law Tribunal (Procedure for reduction of share capital of the company) Rules, 2016.
- h. **Para-11:** The Petitioner Company has submitted Certificate from Shri.S.S. Swamy Chartered Accountants dated 08.06.2023, certifying that the Petitioner Company is not as on date of filing of the application is in arrears in the repayment of the deposits or interest thereon. Rule 2 (c) of NCLT rules is complied by the Petitioner.
- i. **Para -12:** The Petitioner Company has submitted Certificate from Shri Vijaya Vikram Singh, Partner, Walker Chandiok and Co. LLP, Chartered



Accountants dated 08.06.2023 certified that the accounting treatment proposed for the reduction of share capital of the Petitioner Company is in conformity with the Accounting Standards specified in Section 133 or any other provisions of the Act.

- j. **Para-13-** The copy of the advertisement for Reduction of Capital as per NCLT Rules has not been attached along with the application submitted by the Petitioner Company. It is not known whether the Petitioner has advertised as per the requirements. The Hon'ble Tribunal may kindly seek clarification from the Petitioner on the same before passing the orders on merits.
- k. **Para-14:** The scheme is silent about the source of funds to pay-off an amount of Rs.44 crores to the shareholders of the Company since there is no sufficient cash and bank balances as on 31.03.2023 to meet the liabilities as arises on approval of the petition, the matter has been taken up with the company and the company has furnished reply vide letter dated 06.11.2023 stating that the Company has cash and bank balances of Rs.19.13 crores and investments in mutual funds amounting to Rs.64.85 crores and the same will be redeemed to pay-off the shareholders upon approval of the scheme. In view of the above the Hon'ble NCLT may direct the Petitioner Company to file an affidavit in this regard stating the source of fund to meet the pay-off amount of Rs.44 crores.
- l. **Para-15:** The special resolution dated 22.05.2023 as passed by the shareholders to give effect of the reduction of capital does not state the timeline/period for pay-off to the shareholders. The matter has been taken up with the Petitioner Company and vide reply letter dated 06.11.2023, the Petitioner Company has informed that the payoff of Rs.44 crores to the shareholders will be done within 7 days from the date of receipt of certificate issued by the Registrar of Companies registering the order of Hon'ble NCT approving the petition. In this regard, the Petitioner Company may be directed to furnish an undertaking in this regard before the approval of the scheme.



6. In response to the common report of RD and ROC, the Petitioner Company has filed a reply affidavit vide Diary No. 6174 dated 11.12.2023 has inter alia stated as under:

- i. It is submitted that the RD/ROC have not objected to the scheme of reduction of share capital but have with reference to the material papers made available to him has instructed the ROC to file the necessary affidavit before this Tribunal by only placing the observation in relation to the said reduction of the share capital of the Petitioner Company.
- ii. **As regards the observation in Para 9 of the RD/ROC report;** it is submitted that the certificate by the Auditors confirming the correctness of the list of creditors as per the records of the Petitioner Company in accordance with Rule 2 (b) of the NCLT (Reduction of share capital) Rules has been annexed/produced along with the main petition at Annexure-M.
- iii. **As regards the observation in Para 10 of the RD/ROC report;** it is submitted that in pursuance to the order dated 07.08.2023 by this Tribunal individual notices to the unsecured creditors, whose names and addresses appearing in the list of creditors as on 31.05.2023 were dispatched by email and speed post including taking out paper publication in the newspapers “the Hindu” English daily and the translation thereof in “Kannada Prabha” Kannada daily Bengaluru. Even after the services of individual notices to the unsecured creditors and the paper publication being caused in the aforesaid newspapers no representation and objections have been received by any of the unsecured creditors of the Company within the period of 3 months in terms of Section 66 (2) of the Companies Act, 2013 from the date of receipt of the said notice and publication, either opposing and/or objecting to the scheme of reduction of the share capital by the Petitioner company and to this effect a separate affidavit have also been submitted by the Company before this Tribunal. Further, Triveni Turbine Limited, the Holding company and one of the major creditors representing about 93% of the outstanding amount of total unsecured creditor has accorded its consent to the proposed reduction of share capital which was also

provided by the Company to the Regional Director along with their reply dated 20.09.2023.

- iv. **As regards the observation in Para 13 of the RD/ROC report;** It is submitted that in pursuance to the order dated 07.08.2023, the paper publication/advertisement of the petition was caused in Form No.RSC 4 on 23.08.2023 in the newspapers 'The Hindu' English daily and the translation thereof in 'Kannada Prabha' Kannada daily, Bengaluru editions and in compliance thereof the Affidavit regarding the publication of the advertisement in the newspaper to this effect has been submitted on 05.09.2023 before this Hon'ble Tribunal.
- v. **As regards the observation in Para 14 of the RD/ROC report;** As per the financial statements as at 31st March 2023 the Petitioner Company has a cash and bank balance of Rs.19.13 crores and in addition has investments in mutual funds amounting to Rs.64.85 crores. It is submitted that the mutual funds will be redeemed by the Petitioner company to pay-off the 44 crores to its shareholders upon approval of the scheme of reduction and the Petitioner Company has the requisite source of funds and shall honor its commitments and meet its liabilities both present and future fund requirement despite the reduction of its share capital.
- vi. **As regards the observation in Para 15 of the ROC/RD report;** The Petitioner Company undertakes to pay-off the amount of Rs.44 crores to its shareholders within a period of seven working days from the date of receipt of certificate being issued by the Registrar of Companies registering the order passed by the Tribunal approving the confirming the reduction of share capital. Further the proposed reduction of share capital will not be prejudicial to the interest of the creditors of the Petitioner Company and they will not be in any way adversely affected by the proposed reduction of share capital. No representation and/or objections have been received by any of the unsecured creditors of the Company within the period of 3 months in terms of Section 66 (2) of the Companies Act, 2013 from the date of receipt of the said notice and publication either opposing and/or objecting to the scheme of reduction of the share capital by the Petitioner Company.




- vii. It is submitted that none of the observations made in the common report by the Regional Director and Registrar of Companies are such as to warrant not approving the scheme of reduction of share capital as proposed and confirming the minute to be registered under Section 66 (5) of the Companies Act, 2013.

7. The Income Tax Department has filed its report vide Dy.No.5712 dated 10.11.2023 stating as under:

- (1) Outstanding due:

| Sl.No. | A.Y | Demand u/s | Date of Order | Demand Outstanding |
|--------|---------|------------|---------------|--------------------|
| 1. | 2017-18 | 143(1) | 20.04.2021 | 82,00,608 |
| 2. | 2018-19 | 143 (3) | 08.04.2021 | 2,03,59,080 |
| 3. | 2018-19 | 143(3) | 08.04.2021 | 8,59,18,180 |
| 4. | 2021-22 | 143(1) | 18.12.2022 | 3,20,060 |

- (2) Proceedings pending: N/A
- (3) Objection for merger or demerger: The outstanding demands needs to be settled prior to any demerger.
- (4) Unlawful tax planning or tax avoidance: None
- (5) Details of return of income filed: As per e-filing portal latest ITR has been filed upto A.Y 2022-23 declaring gross total income of Rs.24,74,96,520. All tax assessment proceedings and appeals of whatsoever nature, by or against the Transferor Company, pending or arising as at effective date shall be continued and enforced against the Transferee Company. The department reserved its right to determine the tax implications of the Transferor Company contemplated under the Scheme in accordance with the provisions of the IT Act 1961 and the provisions under the Act prevail over anything contrary provided under the Scheme.
- (6) Further, the Assessee Company upon reduction of share capital intends to pay shareholders an amount of Rs. 44 crores shall deemed to be divided under Section 2 (22) (d) of the Income Tax Act, 1961 in the hands of the shareholders. Accordingly, it is required of



the Hon'ble Tribunal to direct M/s. Triveni Energy Solutions Limited to deduct the TDS under Section 194 of the Income Tax Act, 1961 upon making payment to the shareholders on such distribution of deemed divided.

8. The Petitioner Company has filed a reply to the IT Report vide Dy.No.1288 dated 27.02.2024 stating as under:

- a. **Regarding Para (1) of the IT report;** it is submitted that the Petitioner company has disputed the demands and has challenged the same by preferring appeals before the CIT (A), National Faceless Appeal Centre and the said appeals have been admitted by the Appellate Authority and the same are pending consideration and are sub-judice. The details of the pending appeals and the pre-deposits being made in respect of the demands are provided as Anneuxre-1 of this Affidavit. Further the Company verily believes and that it has made out sufficient grounds challenging the disputed demands, which will eventually be allowed by the CIT (A) and the pending appeals will be allowed. In any event the Company also has various other remedies and legal options available if the disputed demands are partially or fully disallowed. It is further submitted that other than the disputed demands and outstanding dues, the Company has no other outstanding and undisputed tax dues.

It is further submitted that the financial position of the company is sound and based on the last unaudited quarterly accounts for period ending 31.12.2023, the free cash reserve of the company stands at Rs.102.03 crore which are maintained by the Company in short term investments in form of high-quality liquid mutual funds and bank deposits. These cash reserves are not required by the Company in its business operations and day to day activities. Similarly free cash reserves of the Company were at Rs.83.98 as on 15.06.2023, the date of filing of the present for reduction before this Tribunal. Thus, during the intervening period of 9 months, the free cash reserves have gone up by Rs.18.05 crores arising solely from business operations and services rendered by the Company. Further, the unlikely event of the disputed demands or part thereof being

disallowed and the Company not succeeding in the pending Appeals CIT (A) or any further challenges in appeals being disallowed, the Company has sufficient cash balance to discharge the tax liabilities in full, even after the pay out of Rs. 44 crores to its shareholders towards the reduction of share capital if approved.

The Company has no pending income tax proceedings and are not engaged in any unlawful tax practices as confirmed by the IT Department in their report submitted this Tribunal.

- b. **Regarding Para-(6) of the I.T Report;** the Company undertakes to deduct Tax at Sources on the sum of Rs.44 crores under Section 194 of the Income Tax Act, 1961 before disbursing and making payments to the shareholders as approved by this Tribunal towards reductions of its share capital. The Company will treat such payments as 'Deemed Dividend' for tax purposes in accordance with Section 2 (22) (d) of the Income Tax Act, 1961. The tax so deducted will be deposited with the Income Tax Department within the due date, under the provisions of the Income Tax Act. 1961
 - c. Further stated that none of the observations made in the report by the I.T Department are such to warrant not approving the scheme of reduction of share capital as proposed and confirming the minute to be registered under Section 60 (5) of the companies act, 2013.
9. Heard Shri. Nandish Patel, Learned Counsel for the Petitioner, Learned Counsel for the RD/ROC and I.T Department. We have carefully perused the pleadings of the parties and extant provisions of the companies Act 2013 and Rules made thereunder.
 10. The RD/ROC has filed an affidavit vide Dy.No.1604 dated 12.03.2024 stating that, the reply filed by the Petitioner company to the common report is examined and observed that the issues raised in the common report have been complied with by the Petitioner Company, hence, no occasion arises for supplementary report. Further, on 11.07.2024 during the course of hearing the Ld. Counsel for the ROC & RD appeared and submitted that there are no further observations to the reply filed by the Petitioner Company to the Report of the ROC & RD Report.



11. The Petitioner Company avails the option of reduction of paid-up share capital which is in consonance with Section 66 read with 52 of the Companies Act, 2013. Following are the provisions:

“66. Reduction of Share capital

(1) Subject to confirmation by the Tribunal on an application by the company, a company limited by shares or limited by guarantee and having a share capital may, by a special resolution, reduce the share capital in any manner and in, particular, may—

(a) extinguish or reduce the liability on any of its shares in respect of the share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its shares,


(i) cancel any paid-up share capital which is lost or is unrepresented by available assets; or

(ii) pay off any paid-up share capital which is in excess of the wants of the company, alter its memorandum by reducing the amount of its share capital and of its shares accordingly:

Provided that no such reduction shall be made if the company is in arrears in the repayment of any deposits accepted by it, either before or after the commencement of this Act, or the interest payable thereon.

- (7) The present position of law, while dealing with provisions of Section 66 is that if none of the shareholders are objecting for the proposed reduction, then after considering the merits of the case as also connected facts and circumstances such petition generally deserves to be admitted. Some of the case laws are discussed below:

- a. In the case of Elpro International Limited (Company Petition No. 288 of 2007) order dated 22.06.2007 reported in (2009) 149 CompCas646 (Bom), Hon’ble Bombay High Court has expressed that the question of reduction of share capital is the matter of domestic concern. Further observed that decision for reduction is based on commercial consideration undertaken by the businessmen who are in the best position to know of the necessities and interest of the company concerned, in the absence of serious allegations as regards the bonafides of the proposed scheme, the courts are of the view that no interference in such decisions is required. It has also been observed that considering the




commercial aspect of the decision it is not permissible for the court to come to the conclusion that the exit opportunity offered is inequitable and unjust.

- b. Likewise, in the case of Reckitt Benckiser (India) Limited (Company Petition No. 206 of 2004) Order dated 31.05.2005 reported in (2005) SCC Online Del 674 after due consideration of the pre and post reduction, admittedly selective one, it was held that if majority by a special resolution decides to reduce share capital of company, it has also right to decide as to how this reduction should be carried into effect.

It is further observed that while reducing the share capital, company can decide to extinguish some of its shares without dealing in the same manner as with all other shares of the same class. The company limited by shares is permitted to reduce the share capital in any manner; thereby a selective reduction is permissible within the framework of law. On the question of valuation as well, an observation was that valuation of shares is a technical matter, which requires considerable skill and experience. If the stakeholders are satisfied with the value, can approve the transaction of reduction of share capital which should not deem to be inequitable or unfair transaction

- c. In the case of Precious Energy Limited vs. Regional Director in Company Appeal (AT) NO. 17/2021 passed by Hon'ble NCLAT wherein it is held that "It is seen from the record that the reduction of the Share Capital was approved by the Shareholders of the appellant Company unanimously by way of special resolution with the objective of reducing the overall weighted average cost of Capital and improving the earning per share. In Reckitt Benckiser (India) Limited (Supra), the Hon'ble Delhi High Court has upheld the view that "the domestic concern i.e., it is the decision of the majority which prevails. If majority by special reduction decides to reduce the share capital of the Company, which also has the right to decide as to how this reduction should be carried into effect". In the instant case, admittedly, the reduction of this Share capital was approved unanimously by the Shareholders by way of a special resolution." "It is seen from the record that the company has complied with all the statutory



requirements as per the directions of the Tribunal and has also filed necessary affidavits to that effect. It is also pertinent to mention that none of the Creditors objected to the reduction of the capital. Section 66 (1) (b) of the Act enables a Company to reduce its share capital in any manner' provided it is approved by the majority of Shareholders through a special resolution.”

- d. Further, in the matter of Economy Hotels India Services Private Limited vs. Registrar of Companies in Company Appeal (AT) No. 97 of 2020 passed by Hon^{ble} NCLAT, it was observed that “Be it noted, that ‘Reduction of Capital’ is a ‘Domestic Affair’ of a particular Company in which, ordinarily, a Tribunal will not interfere because of the reason that it is a ‘majority decision’ which prevails...’.
12. It is noticed, as per the discussion above the necessary compliance of the requirements of Sub- section (1), (2) and (3) of Section 66 of the Act have been made/satisfied by the Petitioner Company. In the circumstances, it is hereby ordered to confirm the reduction of share capital by approving the Minutes of EGM dated 22.05.2023 wherein the members of the Petitioner Company resolved to reduce the issued, subscribed and paid-up equity share capital of the company from Rs.16,00,00,000/- consisting of 1,60,00,000 equity share of Rs.10/- each fully paid to Rs.8,00,00,000/- consisting of 80,00,000 equity shares of Rs.10/- each fully paid up, each by cancelling and extinguish 80,00,000 issued, subscribed and paid-up equity shares of Rs.10 each held by the holding company i.e., Triveni Turbine Limited and its nominees, and paying off in cash against such cancelled shares a fair value of Rs.55/- per share, comprising of Rs.10/- by way of refund of paid-up value of each such share and Rs.45/- per share by way of premium, aggregating to Rs.44 crore.
13. In terms of the above, the minutes approved along with the order shall be delivered to the ROC by filing the e-Form INC 28, within 30 days of the receipt of the copy of the order. Accordingly, the Registry shall prepare an order in form No.RSC-6 as per National Company Law Tribunal (Procedure for Reduction of share capital of the company) Rules, 2016 and issue to the Applicants/Petitioner Company. The Petitioner Company shall publish this



order of confirmation in “Business Standard”, English daily, Bengaluru edition and “Kannada Prabha” Kannada daily, Bengaluru edition, expeditiously and not later than 30 days from the receipts of copy of the order, as required under Section 66(4) of the Companies Act, 2013.

14. **Ordered Accordingly.** To be consigned to the Record.

Form of the Minutes

“The paid-up equity share capital of Triveni Energy Solutions Limited is henceforth INR 8,00,00,000 (Rupees Eight Crore only) divided into 80,00,000 (Eighty lakhs) equity shares of INR 10/- each fully paid up, reduced from INR 16,00,00,000 (Rupees Sixteen Crore only) divided into 1,60,00,000 (One Crore and Sixty Lakhs) equity shares of INR 10/- each fully paid up.

Sd/-
MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

Sd/-
K.BISWAL
MEMBER (JUDICIAL)