

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH  
(COURT – 1 SPECIAL BENCH)**

**CP NO 1701 OF 2018**

In the matter of Section 66 read with Section 52 of  
the Companies Act 2013 and the Rules framed  
thereunder

AND

In the matter of Reduction of Capital of Datasoft  
Application Software (India) Limited And its  
shareholders

Datasoft Application Software (India) Limited  
A company Incorporated under the  
Provisions of the companies Act, 1956  
Having its registered office at  
442, 4th floor, Blue Rose Industrial Estate,  
Western Express Highway, Borivali (East),  
Mumbai, Maharashtra – 400 066

..... Petitioner

Order dated : 06.02.2020

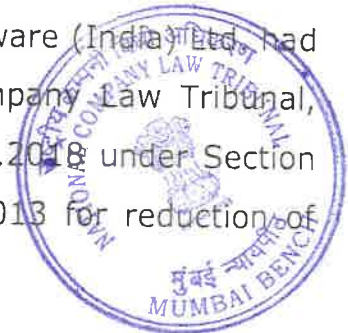
CORAM: Hon'ble B.S.V. Prakash Kumar, Acting President  
Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner: Adv. Hemant Sethi i/b. Hemant Sethi & Co., Advocates

Per: V. Nallasenapathy, Member (Technical)

**ORDER**

1. The Petitioner Company, Datasoft Application Software (India) Ltd, had filed the Petition with the Hon'ble National Company Law Tribunal, Mumbai Bench ('NCLT' or 'this Tribunal') on 10.05.2018 under Section 66 read with Section 52 of the Companies Act, 2013 for reduction of Share Capital.



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2. Heard the learned counsel for the Petitioner Company. No objector has come before the Tribunal to oppose the Petition and nor any party has controverted any averments made in the Petition.

3. The Counsel for the Petitioner Company submits that Article 71 of the Articles of Association of the Petitioner Company empowers the Petitioner Company to reduce its share capital and in accordance with the provision of the Act, which reads as follows:

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

- (a) its share capital*
- (b) any capital redemption reserve fund, or*
- (c) any share premium account.*

4. The learned Counsel for the Petitioner Company submits that this petition is for confirmation of a special resolution passed by the Petitioner Company for reduction of its share capital by reducing its Paid up Capital of the Company from ₹31,440,000 (divided into 31,44,000 Equity Shares of ₹10 each) to ₹11,318,400 (divided into 31,44,000 Equity Shares of ₹3.60 each), thereby reducing the nominal value of Equity Shares from ₹10 each to ₹3.60 each by cancelling the share capital of ₹6.40 per Equity Share and reduction in Securities Premium Account from ₹22,603,200 to ₹2,193 & reduction in Share Forfeiture Account from ₹11,869,500 to ₹Nil and that such reduction be effected by writing off the entire accumulated losses of ₹54,592,107. The Issued, Subscribed and Paid up Capital of ₹11,318,400 (divided into 31,44,000 Equity Shares of ₹3.60 each) shall be consolidated in to 1,131,840 Equity Shares of ₹10 each in such a manner that every 100 (Hundred) equity shares of ₹3.60 each shall constitute 36 (Thirty Six) equity shares of ₹ 10 each fully paid up forming and integral part of the Scheme of reduction of capital. Upon consolidation of the Equity shares of the Company as aforesaid, every 100 (Hundred) equity shares of the face value of ₹ 10 (Rupees Ten only) each fully paid-up held by a shareholder as on the Record Date shall stand consolidated into 36 (Thirty-Six) equity shares of the face value of ₹ 10 (Rupees Ten only) each fully



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paid-up with effect from the Record Date.

5. The Regional Director, Western Region, Mumbai in his report dated 18<sup>th</sup> October 2018 stating therein that save and except as stated in para 7 (a) to (c) of the said Report, has made following observations:

(a) *Applicant to submit an affidavit to the effect that the Applicant Company is not subject to any scam and interest of the creditors, stakeholders are protected as well as statutory dues are paid off.*

(b) *It is submitted that a copy of newspaper is not submitted.*

(c) *The tax implication if any arising out of the proposal of reduction is subject to final decision of Income Tax Authorities. The approval of the Company Petition by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the Company after giving effect to the proposed reduction. The decision of the Income Tax Authority is binding on the Petitioner Company.*

6. In so far as observations made by the Regional Director, the Petitioner Company have filed an Affidavit dated 24<sup>th</sup> October 2018 and have clarified:

(a) That the Petitioner is not subject to any scam and interest of the creditors, stakeholders are protected as well as statutory dues are paid off.

(b) The notice of the hearing of the Petition has been published in 'Business Standard' and 'Navshakti' on 21st July 2018.

(c) That the tax implication, if any, arising out of the proposal for reduction is subject to final decision of Income Tax Authorities. The approval of the Company petition by the Hon'ble NCLT may not deter the Income Tax Authority to scrutinize the tax return filed by the Company after giving effect to the proposed reduction. The decision of the Income Tax Authority will be binding on the petitioner Company.

7. The Regional Director has filed his Supplementary Report dated 20<sup>th</sup>



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March 2019 and has observed that the reply of the Petitioner is satisfactory.

8. The Counsel appearing on behalf of the Petitioner Company further submits that the Petitioner Company has complied with all statutory requirements as per the directions of the Tribunal. Moreover, the Petitioner Company also undertakes to comply with statutory requirements, if any, under the Companies Act, 2013 and the Rules made thereunder, as may be applicable.
9. Since the requisite statutory procedure has been fulfilled, the Company Application is made absolute in terms of the prayer clause (1) & (3) of the Application.
10. All concerned regulatory authorities to act on certified copy of the order duly certified by the Deputy Director or Assistant Registrar, National Company Law Tribunal. The Petitioner Company is to file the same with the Registrar within 30 days from the date of the receipt of the order.
11. The Petitioner Company to publish notices about registration of order and minutes of registration by the concerned Registrar of Companies, Maharashtra in two newspapers namely "Business Standard", in English language and 'Navshakti', in Marathi Language, both having circulation in Mumbai, within 30 days of registration.
12. In view clarification given by Petitioner, Company Petition for reduction of share capital is allowed.
13. The Petitioner Company undertakes to file the certified copy of the order and form of minutes duly certified by the Deputy Registrar, National Company Law Tribunal with the Registrar within 30 days from date of the receipt of present order.
14. All concerned regulatory authorities to act on production of certified copy of this order to be issued on demand by the Deputy Registrar, National Company Law Tribunal.



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**Form of Minutes**

"The subscribed and the paid up capital of Datasoft Application Software (India) Limited henceforth is Rs.11,318,400/- (Rupees One crore Thirteen lakhs Eighteen thousand Four hundred only) divided into 1,131,840 Equity Shares of Rs. 10/- each reduced from ₹43,309,500/-. The Securities Premium Account of the Company henceforth is ₹2,193 reduced from Rs.22,603,200/ - as on March 31, 2017."

Sd/-  
V. NALLASENAPATHY  
Member (T)

Sd/-  
B.S.V. PRAKASH KUMAR  
Acting President

Jenny Dsouza - Steno



Certified True Copy  
Date of Application 17-02-2020  
Number of Pages 5  
Fee Paid Rs. 25  
Applicant called for collection copy on 27-02-20  
Copy prepared on 27-02-2020  
Copy Issued on 27-02-2020

  
Assistant Registrar  
National Company Law Tribunal, Mumbai Bench