

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA SITTING AT KAMPALA
(COMMERCIAL DIVISION)

COMPANY CAUSE No. 0001 OF 2021

IN THE MATTER OF A PETITION FOR REDUCTION OF SHARE CAPITAL
AND
IN THE MATTER OF TRANSTEL LTD

Before: Hon Justice Stephen Mubiru.

RULING

a. Background.

M/s Transtel Limited (hereinafter referred to as “the company”) was incorporated in Uganda on 7th January, 2008. It has henceforth to-date been engaged in the import and distribution of an assortment of manufactured goods. During the year 2017, intending to avail shares to M/s Beverly Investments Ltd, a company incorporated in Seychelles then an intending investor into its business, the company passed a special resolution increasing its initial share capital from shs. 1,300,000,000/= to shs. 2,600,000,000/= It accordingly increased its shares from 1000 to 2000. Consequently, M/s Beverly Investments Ltd was allotted 9,607 fully paid up shares from the increment of 1000 shares. On or about 4th August, 2020 due to liquidity problems occasioned by the breakout of Covid-19, M/s Beverly Investments Ltd passed a resolution disposing of its investment in M/s Transtel Limited. By that dis-investment, the purpose for which the increment of shares had been made is now lost and the company finds itself with more share capital that it requires for its business, hence this application.

a. The application.

This application is made pursuant to sections 76 to 81 of *The Companies Act, 2012*; sections 14 and 33 of *The Judicature Act*; section 98 of *The Civil Procedure Act* and Order 38 rules 3 (a), (e) and 8 of *The Civil procedure Rules*. The applicant seeks orders that the initial registered share capital of M/s Transtel Limited be reduced from shs. 2,600,000,000/= to shs. 1,300,000,000/=; a public notice of that reduction is issued; a minute to that effect be entered at the Company Registry; the three hundred ninety three (393) un-allotted shares be extinguished; Mr. Amar Mukesh

Thakrar, Nishi Thakrar, Anuj Thakrar, Nita Thakrar, Sabree Thakrar, Sidharth Thakrar and Bindu Thakrar remain the company's only shareholders from the day of the order until they chose to otherwise deal with their respective shares, M/s Beverly Investments Ltd is deleted from the register as a shareholder in M/s Transtel Limited and the costs of the application be provided for.

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b. Submissions of counsel for the applicant.

M/s Atigo and Co. Advocates submitted that the company's Article of Association permit it to reduce its share capital by special resolution. The court is required to inquire into an application for such reduction, and grant the order in the event that it discovers the company's creditors will not be prejudiced by such reduction. On the 1000 share increment, only 960 were paid up by M/s Beverly Investments Ltd, leaving forty (40) shares un-allotted. Following M/s Beverly Investments Ltd disinvestment from the company business and repatriation of its investment back to Seychelles as a consequence of liquidity problems occasioned by the Covid-19 pandemic, the company finds itself with more share capital that it requires for its business. On 30th October, 2020 the applicant passed a unanimous special resolution for the reduction of its share capital and has published a notice to that effect in the National Gazette and a newspaper of wide circulation within the jurisdiction of this court. Since that publication, no creditor has come up to object to the proposed reduction of the company's share capital.

20c. The decision.

The Reduction of a company's share capital involves a reduction of issued, subscribed and paid up share capital of the company. Such reductions require the sanction / approval of court. By virtue of sections 76 to 81 of *The Companies Act, 2012*; the court must be satisfied that; (i) the applicant's Articles of Association permit the reduction of its share capital; (ii) a unanimous special resolution to that effect has been passed by the applicant; (iii) the applicant has published notice of its intention to reduce its share capital in the National Gazette and a newspaper of wide circulation within the jurisdiction of this court; (iv) the applicant has secured the consent of its creditors; or (v) the interests of its creditors will not be prejudiced by such a reduction.

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In the instant case, the repatriation of M/s Beverly Investments Ltd investment in the applicant company implies that the company now has 1000 shares in excess of the wants of the company, that are consequently unrepresented by available assets.

5 Section 77 (1) of the Act requires the company to cause the resolution to be published in the Gazette and in a newspaper having national wide circulation, but does not specify the duration of that publication. If in consequence of such publication a creditor states his or her claim, the court may, if it is satisfied that the debt or claim of every creditor of the company has been discharged or determined or has been secured or his or her consent is obtained, make an order confirming the
10 reduction of share capital on such terms and conditions as it deems fit. If no representation has been received within the said period, it shall be presumed that they have no objection to the reduction.

The court is satisfied that the applicant has met all the above mentioned requirements. The
15 application is therefore allowed and the following orders, namely;

- a) M/s Transtel Limited is hereby authorised to reduce its share capital from shs. 2,600,000,000/= to shs. 1,300,000,000/=;
- b) A minute to that effect be entered at the Company Registry;
- c) The three hundred ninety three (393) un-allotted shares be extinguished;
- 20 d) Mr. Amar Mukesh Thakrar, Nishi Thakrar, Anuj Thakrar, Nita Thakrar, Sabree Thakrar, Sidharth Thakrar and Bindu Thakrar remain the company's only shareholders from the day of the order until they chose to otherwise deal with their respective shares.
- e) M/s Beverly Investments Ltd is deleted from the register as a shareholder in M/s Transtel Limited.
- 25 f) The company shall within fourteen days of this order, register the special resolution to that effect with the Registrar of Companies, showing with respect to the share capital of the company, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share and the amount at the date of the registration taken to be paid up on each share.
- 30 g) Notice of the registration shall be published in the Gazette and in a newspaper having national wide circulation within thirty (30) days of the registration.

h) There is no order as to costs.

Dated this 22nd day of April, 2021

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Stephen Mubiru
Judge,
22nd April, 2021.
10.18 am.