

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CA No. 207/252/HDB/2017
U/s 252 of the Companies Act, 2013
R/w Rule 87A of NCLT Rules, 2016

In the matter of:

Kamineni Constructions Private Limited
Having its registered office at
3-64/PB/202, Flat No. 202, 3rd Floor,
Prithvi Block, Srivensai Projects,
Medchal Road, Secunderabad – 500 014.
Telangana.

...Appellant

Versus

Registrar of Companies, Hyderabad,
For Andhra Pradesh and Telangana
2nd Floor, Corporate Bhawan, GSI Post
Nagole, Bandlaguda,
Hyderabad – 500068
Telangana.

...Respondent

Order Pronounced on: 01.03.2018

CORAM

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties / Counsel present

For the Appellant : Shri Ravi Kiran Kamineni (Party in Person)

For the Respondent : None



Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The Present Company Application bearing CA No. 207/252/HDB/2017, is filed by Kamineni Construction Private Limited U/s 252 of Companies Act, 2013, on 31.10.2017, by inter-alia, praying that directions may please be given, in view of the facts and circumstances stated above, it is humbly prayed that he Hon'ble Tribunal may please issue notice to the Respondent and after hearing the parties allow the Company Petition directing the Registrar of Companies, Andhra Pradesh and Telangana, Respondent, to restore the name of the Petitioner Company on the Register of Companies maintained by the Registrar of Companies, Andhra Pradesh and Telangana as if its name has not been struck off from the rolls of the Register.



Brief facts mentioned in Application:

2. The Appellant Company was incorporated on 18.10.2011 in the state of Telangana. The Authorized share capital of the Company is Rs.1,00,000/- (Rupees One Lakh only) divided into 10,000/- (Ten Thousand Only) equity shares of Rs.10/- (Rupees Ten Only) each. The current issued, subscribed and paid up capital of the company is Rs.1,00,000/- (Rupees One Lakh only) divided into 10,000/- (Ten Thousand Only) equity shares of Rs.10/- (Rupees Ten Only) each.
3. The main objects for which the company was incorporated, as given in the Memorandum of Association are as under:

To carry on the business of developing Infrastructures, Constructions, Interior designs and projects, Electrical H.T & L.T works, maintaining and operating of road, highway projects, bridge, express ways, Intra-urban

roads and/or peri-urban roads like ring roads and / or urban by-passes, fly-overs, bus and truck terminals, subways, port, inland waterways and Inland ports, water supply project, irrigation project, Sanitation and sewerage system, water treatment systems, solid waste management system or any other public facility of similar nature etc.

4. ROC has struck off the Appellant Company's name from the Register of Registrar of Companies due to defaults in statutory compliances, namely, failure to file Financial Statements and Annual Returns for the period from Financial Year 2013-14 till 2015-16. Consequently, the ROC initiated proceedings U/s 248 of the Companies Act, 2013 for the purpose of striking off the name of the Company from the Register maintained by the ROC.
5. Appellant submitted that the Appellant Company has not received notices as required U/s 248(1) of the Companies Act, 2013.
6. Appellant Company has been active since incorporation and has also been maintaining requisite documentation as per the provisions of the Companies Act, 2013 and has filed Financial Statements and Annual Returns till 2013-13. Annual Returns for the Financial Year 2013-14 to 2015-16 could not be filed since one of the Director (Smt. Kamineni Vijaya Lakshmi, Mother of Managing Director) is bed ridden and entire work load is on the in addition to taking care of the bed-ridden Director.
7. Appellant further submits that it was in July 2017, when the Financial Statements for the period from 2013-17 to 2015-16 were ready to be filed with the Respondent, the fact that the non-filing of the returns and Financial Statement with the Respondent, as well as the fact that the Appellant Company's



name has been struck off from the Register maintained by the Respondent was known to the Appellant Company.

8. That the petitioner Company submits that in the event of revival of the Company and Restoration of the name of the Company in the Register maintained by the Respondent, the Appellant Company shall file all outstanding statutory documents i.e., the Financial Statements and Annual Returns for the period from 2013-14 to 2016-17 along with the filing fees and the additional fee, as applicable on the date of actual filing.



9. On 22.11.2017, the Appellant has filed an Independent Auditors Report stating their revenue for the Financial Year ending 31.03.2014 as 90,42,501/-, revenue their revenue for the Financial Year ending 31.03.2015 as 1,67,84,988/-, their revenue for the Financial Year ending 31.03.2016 as 1,66,16,782/- and their revenue for the Financial Year ending 31.03.2017 as 1,95,56,456/-. The Appellant Company is regular in Filing Income Tax Returns and has also filed Income Tax Return for the Assessment Year 2017-18.

10. The Appellant has filed a memo dated 03.01.2018 stating that the Appellant Company has submitted the Financial Statements for the Financial Year 2013-14, 2014-15, 2015-16 and 2016-17 with proof of having filed Income Tax Returns for these years in support of the Company being active as on date. Appellant further submitted that the Appellant Company has provided requisite disclosure in the Notes to Financial Statements as regards its holding and dealings in Specified Bank Notes as defined in the Notification S.O.3407E dated November 8, 2016 of the Ministry of Finance, during the Demonetization period being from November 8, 2016 to

December 30, 2016, in its Income Tax Returns for Financial Year 2016-17.

11. ROC vide its letter No: ROCH/LEGAL/SEC252/77039-/KCPL/STACK/2017 dated 03.01.2018 has filed its Report reiterating the averments made in the Application and submitted that the Company was marked strike off in MCA portal and STK-7 notice was also published in the Official Gazette on 19.08.2017. ROC also submitted that the Appellant Company shall be directed to file all pending returns, namely Annual Returns/ Balance Sheet with fees/ additional fees as prescribed under the provisions of the Companies Act, 2013.



12. We have heard Shri Ravi Kiran Kamineni (Party in Person) and we have carefully perused all the records, ROC Report and the company is in operation and has been generating revenue from operations as stated supra.

13. In view of the above submissions and undertaking given by the Appellant Company, we are of the considered view that it would be just and proper to order restoration of the name of the Appellant Company in the Register of Registrar of Companies. Accordingly CA No. 207/252/HDB/2017 is allowed subject to:

- a. Filing of all the pending returns, namely Annual Returns/ Balance Sheets as prescribed under the provisions of the Companies Act, 2013 within 4 week from the date of receipt of the copy of this order.
- b. Completion of all formalities including payment of late fee or any other charges which can be levied by the Registrar of Companies for late deposit of statutory documents.
- c. Payment of costs of Rs. 50,000/- (Fifty Thousand) through online payment in www.mca.gov.in under miscellaneous fee

by mentioning particular as "Payment of Cost for revival of Company pursuant to orders of Hon'ble NCLT in CA. No. 207/252/HDB/2017" within 2 weeks from the date of receipt of copy of this Order.

- d. The Appellant Company to file an affidavit submitting the company would follow all the provisions of the Companies Act, 2013, and Rules framed therein within the stipulated time.
- e. The Appellant to submit a copy of this order to ROC within two weeks from date of receipt of copy of this order.
- f. The name of the Appellant Company, shall stand restored to the Register of Registrar of Companies as if the name of the Company had not been struck off in accordance with Section 252 of the Companies Act, 2013.
- g. Liberty is granted to the ROC to proceed with penal action against the Appellant, if so advised, on account of the Appellant's alleged defaults in compliance with any other provisions of the Companies Act, 2013.



sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

G. Ananthakrishna
G. Dy. Regr./Asst. Regr/Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER *CA No. 207/252/HDB/2017*
निर्णय का तारीख
DATE OF JUDGEMENT *1.3.2018*
प्रति तैयार किया गया तारीख
COPY MADE READY ON *5.8.2018*