

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.09.2018 AT 10.30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.807/252/HDB/2018
NAME OF THE COMPANY	Deva Health Pvt Ltd
NAME OF THE PETITIONER(S)	Deva Health Pvt Ltd
NAME OF THE RESPONDENT(S)	Registrar of Companies Hyderabad
UNDER SECTION	252

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Tr. Syjan kumar Ruddy	Adv.	9160001425	Jey.
for Roc			

ORDER

Orders passed vide separate order

  
Member(Judl)

Pavani

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

CA. NO.807/252/HDB/2018  
U/s 252 of Companies Act, 2013

In the matter of

M/s Dava Health Private Limited  
R/o. 16/106, Sai Nagar Colony,  
Lalbazar,  
Secunderabad,  
Hyderabad,  
Telangana- 500 015.

...Applicant

**VERSUS**

The Registrar of Companies  
2<sup>ND</sup> FLOOR, Corporate Bhawan, GSI Post  
Tattiannaram, Nagole, Bandlaguda  
Hyderabad – 500068

....Respondent

**Date of order: 28.09.2018**

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties /Counsels present:

For the Applicant: Ms. D. Siri Preeti along with Ms. A.  
Sandhya Rani, Advocates

For the Respondent: Shri T. Sujan Kumar Reddy, CGSC for  
RoC

Heard on: 25.07.2018, 10.08.2018, 24.08.2018, 10.09.2018, &  
18.09.2018

**ORDER**


1. The Applicant M/s Dava Health Private Limited (herein referred to as "Company") has filed the present Application under Section 252 of the Companies Act, 2013, with a prayer for issuance of directions to the Registrar of Companies, Hyderabad to restore the name of the Company in the Register



of Companies and to pass such order as deemed fit in the circumstances of the case.

2. The averments made in the Company Application are briefly described hereunder:-


- (1) The Company was incorporated on 13.02.2012 under the Companies Act, 1956. The main objects of the Company are to carry on the business as manufactures of and dealers in pharmaceutical, medical, herbal, bacteriological, biological, chemical, industrial and other preparations, articles and compounds and druggists generally. The company's Memorandum and Articles of Association are enclosed. (Annexure- D2 &D3).
- (2) The Share Capital of the Company is Rs.1, 00,000/- (Rupees One Lakh Only) divided into Rs.10, 000/- (Rupees Ten thousand only) equity shares of Rs. 10/- each.
- (3) It is averred in the Company Application that, due to non-filing of the Annual Returns by the Company the Registrar of Companies, Hyderabad issued Public Notice in pursuance of sub-section (1) and (4) of Section 248 of the Companies Act, 2013 and Rule 7 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 vide Public Notice: ROC/ Hyderabad / STK-1/Revised Dt.05/05/2017. Further the Applicant Company was struck off vide Notice ROC (H)/248(5)/STK-7/2017 dated 21.07.2017.
- (4) The Applicant Company avers that it was incorporated for the purpose of development of pharmaceutical and medicine, as the focus was more on the other company, directors could not focus on the Applicant Company and due to which the company could not file compliances in time. The applicant company conducted its Annual General Meeting and other meeting regularly but could not file the same with the Respondent.

- (5) The Applicant Company avers that the company directors are unable to take any steps to run companies because of automatic disqualification. This is causing of lot of inconvenience without any fault of other companies which are running successfully.
  - (6) The Applicant Company further states that upon granting of prayers stated in the application, it shall file all its pending statutory filings immediately after the name is restored in the register maintained by RoC, Hyderabad.
  - (7) It is further averred that the Applicant Company has enclosed the following documents giving justification / substantiating that the Company has been operational as under:-
    - (1) Certificate of incorporation.
    - (2) Certified copies of memorandum and Articles of Association of the Company.
    - (3) Memo filed by complying that there is no interim order in this application.
    - (4) Memo filed stating no bank account for the company.
  - (8) The Learned Counsel for the Applicant Company has stated that the Company has filed its Application within the limits laid down under Section 252 (3) of the Companies Act, 2013.
3. The Registrar of Companies Hyderabad denied all the averments made in the Application except those which are specifically admitted herein and submitted his report vide memo No. ROCH/ LEGAL/ SEC252/ 079117/ DHPL/ JTASSK/2018 dated 09.08.2018 stating as follows:-
- a. The Company did not file the annual accounts and annual returns since incorporation, hence the company was identified for strike off u/s 248(1) and STK-1 notice was issued to the company and its directors and STK-5 notice dated 05.05.2017 was issued and published in the Gazette and a paper publication was also issued informing all the stake holders about STK-5 notice published in MCA
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website, STK 5-A was also published in Andhra Jyothi in Telugu language and New Indian Express newspaper in English language on 15.05.2017 calling for objections from all stake holders. As objections are not received in respect of the Applicant Company, it was marked strike off in MCA Portal and STK-7 notice was also published in the Gazette on 19.08.2017.

- b. Respondent further stated that it has no objection if the Tribunal considers the present Application for restoration of the name of the Company back to the Register of Companies U/s 252 of the Companies Act, 2016 subject to such conditions as specified therein.
- c. Respondent further states that the Tribunal may direct the Applicant Company to ensure statutory compliance under applicable provisions of the Companies Act, 2013 without any delay in future.
- d. Respondent has also urged this Tribunal to direct the Application Company to file a declaration from the Directors of the Company regarding deposit of cash in banks during the demonetization period.
- e. Respondent further stated that this Tribunal may award cost of the proceedings in favour of RoC and direct the Applicant Company to pay the cost through online payment in [www.mca.gov.in](http://www.mca.gov.in).
- f. Section 252 (3) stipulates that

***“Section 252(3): If a Company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section(5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies,***



***order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.”***


4. I heard the counsel for the Applicant Company, who contended that, the Company is doing its business on a going concern basis. The Learned Counsel urged that due to lack of professional advice, inadvertence and oversight the Company could not file the statutory returns on time. She further contended that, the Applicant Company will file necessary financial statements and Annual Returns soon after restoration of the name of the Company with the Registrar of Companies, Hyderabad and prayed the Tribunal to revive this Company.
5. Further, I have seen the latest Balance sheet as on 31<sup>st</sup> March 2017 of the Applicant Company. The Applicant Company is having Assets (Intangible Assets and current assets) at Rs.1,05,000/- as on 31.03.2017.
6. After hearing the counsel for the Applicant Company and after perusal of material documents on record, the report of the RoC, Hyderabad and after going through the provisions of Section 252 (3) of the Companies Act, 2013, this Tribunal is of the view that the Company was in existence and it is a going concern and name of Company to be restored in the Register of Companies as maintained by RoC.
7. By exercising the powers conferred on this Tribunal under Section 252 of the Companies Act, 2013, and Rule 87-A of NCLT (Amendment) rules 2017, R/w NCLT Rules, 2016, the Company application bearing CA No. 807/252/HDB/2018 is disposed of with the following directions:

- 1) The Registrar of Companies, the respondent herein, is ordered to restore the original status of the Applicant Company as if the name of the company has not been struck off from the Register of Companies and take all consequential actions like change of company's status from 'strike off' to Active (for e-filing), to restore and activate the DINs if applicable, to intimate the bankers about restoration of the name of the company so as to defreeze its accounts.
- 2) The Applicant company is directed to file all the statutory document(s) along with prescribed fees/ additional fee/fine as decided by RoC within 30 days from the date on which its name is restored on the Register of companies by the ROC;
- 3) The Company's representative, who has filed the Company application is directed to personally ensure compliance of this order.
- 4) The restoration of the Company's name is also subject to the payment of cost of Rs 25,000/- (Rupees Twenty five thousand only) through online payment in [www.mca.gov.in](http://www.mca.gov.in) under miscellaneous fee by mentioning particulars as "payment of cost for revival of company pursuant to orders of Hon'ble NCLT in CA No.807/252/HDB/2018".
- 5) The applicant is permitted to deliver a certified copy of this order with ROC within thirty days of the receipt of this order.
- 6) On such delivery and after duly complying with above directions, the Registrar of Companies, Hyderabad is



directed to, on his office name and seal, publish the order in the official Gazette;

- 7) This order is confined to the violations, which ultimately led to the impugned action of striking of the Company, and it will not come in the way of ROC to take appropriate action(s) in accordance with law, for any other violations /offences, if any, committed by the applicant company prior or during the striking off of the company.

  
28-9-18  
**RATAKONDA MURALI**  
**MEMBER (JUDICIAL)**

Pavani