

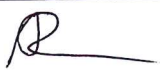
**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH**

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


**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 12.09.2018 AT 10.30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.659/252/HDB/2018
NAME OF THE COMPANY	Rotodyne Infrastructure Pvt Ltd
NAME OF THE PETITIONER(S)	Karnati Neeladri Reddy
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
P. Anil Mukherji	A=U	9885314234	

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
P. Sujan Kumar Reddy	Advocate	9160001435	

**ORDER**

Orders pronounced vide separate orders.

  
Member (J)

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

CA NO. 659/252/HDB/2018  
U/s 252 of the Companies Act, 2013

**In the Matter Rotodyne Infrastructure Private Limited**

Mr. Kuraparthi Madhusudhana Reddy,  
Shareholder and director of Rotodyne Infrastructure Private Limited,  
R/o. Plot No. 9 & 10,  
Annapurna Enclave Chandanagar,  
Hyderabad-500 050.

...Applicant

**VERSUS**

The Registrar of Companies, Andhra Pradesh &  
Telangana, 2<sup>nd</sup> Floor, Corporate Bhavan  
Bandlaguda, Nagole, Hyderabad- 500068

...Respondent

Date of order: 12.09.2018

**Coram:**

Hon'ble Shri Ratakonda Murali, Member (Judicial)

**Parties / Counsels Present:**

For the Applicant: Shri P. Anil Mukherji, Counsel.

For the Respondent: Shri T. Sujana Kumar Reddy, CGSC along  
with Ms. Sindhura, Advocate

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 18.06.2018, 10.07.2018, 26.07.2018, 08.08.2018,  
24.08.2018 and 10.09.2018.

**ORDER**

1. The Applicant Mr. Kuraparthi Madhusudhana Reddy, Shareholder and director of M/s **Rotodyne Infrastructure Private Limited** has filed 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:-
  - a. The Company was incorporated under the Companies Act, 1956 on 15<sup>th</sup> November, 2007 as a private Limited Company with Registrar of Companies, Andhra Pradesh and Telangana. The Registered Office of the Company is situated at 4-63/1, HUDA Commercial Complex, Chandanagar, and Hyderabad.
  - b. The main objects of the company are to carry on the business of all infrastructure projects such as Trunk projects of power cement, sugar and Heavy Industries including Erection, Installation Commissioning of all kinds and varieties of Rotating Equipment etc.. The Copy of the Memorandum & Articles of Association of the Applicant Company are attached hereto and marked as Annexure: 1.
  - c. The Authorised, Issued, Subscribed and paid up share Capital of the Company is Rs.1,00,000/- (Rupees One Lakh only) divided into 10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each. The issued and subscribed paid up capital is Rs.1, 00,000/- (Rupees One Lakh only) divided into 10,000 (Ten Thousand) Equity Shares of Rs.10/- (Rupees Ten only) each.
  - d. It is averred in the application that the Registrar of Companies, Andhra Pradesh and Telangana at Hyderabad, Vide Notice No. ROC(H)/248(5)/STK-7/2017, Dt: 21.07.2017, read with the grounds as mentioned in Public Notice No. ROC/HYDERABAD/STK-1/Revised, DT: 05.05.2017, with reference to Letter of ROC in Form STK-1, has struck-off the Applicant Company, from the Register of Companies. The Notices DT: 05.05.2017 and 21.07.2017 were placed in the MCA portal.

- e. The Applicant avers that the company is into the business of infrastructure development. The company has not filed its annual returns from the date of incorporation due to lack of business activity whereas the company is having turnover of Rs.19,56,255/- by 31.03.2017. In the month of March, 2018, the company received the business orders worth Rs. 45,22,000/- through work order dated 05.03.2018. Copy of work order is annexed here with as Annexure-3.
- f. The Applicant avers that the respondent struck off the company's name due to defaults in statutory compliances, namely failure to file financial statements and annual returns right from its incorporation i.e from 2007-08 to 2016-17. The applicant also avers that non-filing of statutory returns is neither wilful nor intentional.
- g. The Applicant Company avers that it is not involved in routing the black money, whether directly or indirectly during the demonetization period i.e, from November 8, 2016 to December 31, 2016, Affidavit is annexed here with as Annexure-4.
- h. The applicant avers 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 petitioner company will file all outstanding statutory documents.
- i. It is averred that, unless the present application is allowed and the name of the company is restored on the Register of Companies maintained by the Respondent, the Applicant as well as the Company, its shareholders and directors shall suffer irreparable loss and hardship and will be highly prejudiced.
- j. It is further averred that the Applicant has enclosed the following documents giving justification / substantiating that the Company has been operational as under:-
- (1) Certificate of incorporation.



(2) Copy of Memorandum and Articles of Association of the Company.

(3) Demonetisation period affidavit has been filed.

k. The Learned counsel for the Applicant has stated that the Company has filed its Application within the limits laid down under Section 252 of the Companies Act, 2013.


3. The Registrar of Companies Hyderabad/Respondent herein 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/ 056328/ RIPL/ JTASSK/2018 dated 09.07.2018 stating as follows:-

- a. The Company did not file the annual accounts and annual returns for 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 issued informing all the stake holders about STK-5 notice published in MCA 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 there was no objections received in respect of the Applicant Company, it was marked strike off in MCA Portal and STK-7 notice also published in the Gazette on 19.08.2017.
- b. The Respondent states 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 further states that the Applicant Company may be directed to file INC-28 along with a certified copy of the order of the Tribunal with the RoC within 30 days from the date of order.
- e. 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.
- f. 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) .
  - g. 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 have heard the Learned Counsel for the Applicant, who contended that, the Company is doing its business on a going concern basis. Further Learned counsel stated that due to lack of advisory services of professionals, Company could not file the statutory returns on time. Counsel further contended that, the
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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 the Company.

5. Further, I have seen the latest Balance sheet as on 31<sup>st</sup> March 2018 of the Applicant Company. The Applicant Company is having Fixed Assets worth at Rs. 3,45,850/- and having the income at Rs. 24,85,155/- for the financial year 2018.
6. After hearing the counsel for the Applicant 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. 659/252/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 50,000/- (Rupees Fifty 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.659/252/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.

  
**RATAKONDA MURALI**  
**MEMBER (JUDICIAL)**

12.9.18