

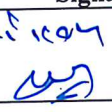
**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

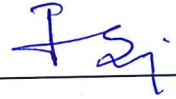
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.861/252/HDB/2018
NAME OF THE COMPANY	Srinivasa Power & Agro Pvt Ltd
NAME OF THE PETITIONER(S)	Bollineni Venkata Rama Rao
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
K.c.v. Venkat Reddy	PSI	svenkatreddy@swaif.com 9849242304	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
T. Sujan Kumar Reddy	Adv.	9100001435	
for Doc			

ORDER

Orders passed vide separate order


Member(Judl)

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

CA No. 861/252/HDB/2018

U/s 252 of Companies Act, 2013

In the matter of M/s.SRINIVASA POWER & AGRO PRIVATE LIMITED

Mr. Bollineni Venkata Rama Rao,
(Director and Shareholder of M/s. SRINIVASA POWER & AGRO PRIVATE LIMITED)

Registered Office:

8-2-595/3/12B, Eden Garden, Road No.10,
Hyderabad- 500034.

.....Applicant

VERSUS

The Registrar of Companies
Andhra Pradesh & Telangana
2nd Floor, Corporate Bhawan
GSI Post, Tattiannaram, Nagole, Bandlaguda
Hyderabad – 500068

...Respondent

Order pronounced on 28th September, 2018

Coram

Hon'ble Shri RatakondaMurali, Member (Judicial)

Counsels / parties present:

For the Applicant Company:

K.CH.Venkat Reddy,
PCS.


For the Respondent:


Shri T. Sujan Kumar Reddy and
Ms. G. Suma, CGSC

Per: Hon'ble Shri RatakondaMurali, Member (Judicial)

Heard on 24.08.2018, 11.09.2018, 25.09.2018.

ORDER

1. The Application is filed by Mr. Bollineni Venkata Rama Rao, Director and Shareholder of the Company M/s. Srinivasa Power & Agro Private Limited 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 Applicant 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 12.10.2010 as a private Limited Company with Registrar of Companies, Andhra Pradesh and Telangana. Its registered address is same as mentioned in the cause title.
 - b. The main objects of the Company are to carry on, manage, supervise, and control the business of transmitting, manufacturing, supplying, generating, distributing and dealing in electricity and all forms of energy and power generated by any source whether nuclear, steam, Biomass, hydro or tidal, water, wind, solar, hydrocarbon, fuel or any other form, kind or descriptions.
 - c. The Authorized Share Capital of the Company is Rs.5,00,000/- (Rupees Five Lakhs only) divided into 50,000 (Rupees Fifty Thousand Only) Equity shares of Rs.10/- (Rupees Ten only) each. The Issued, Subscribed and Paid-up Capital of the Company is 5,00,000/- (Rupees Five Lakh Only) divided into 50,000 (Fifty Thousand Only) equity shares of Rs.10/- (Rupees Ten only) each.
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- d. It is averred in the Company Application that, the Company is doing business since incorporation and the Company is having assets and liabilities.
- e. It is averred in the Company Application that, the accounts of the Company were prepared and audited up to date.
- f. It is averred in the Company Application that, the Company has recently received the work order from "SIGMA CREATIONS" dated 30.06.2018 for construction of FRP gated check dams across with fiber reinforced shutters across the Kundelu Vagu under "NEERU-CHETTU" which costs around Rs. 127.07 Lakhs. The Company is unable to clear the orders as the Company is Struck- off by the Respondent.
- g. The Applicant further avers that the then Director of the Company filed an Affidavit for and on behalf of the Company, in connection with cash transactions in the Company during the Demonetization period (08.11.2016 to 30.12.2017).
- h. It is averred in the Company Application that, the Company and Applicant are taking steps to regularize all the statutory filings and undertake to be regular in complying with relevant provisions of the Companies Act,2013 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) Certified True Copy of Memorandum and Articles of Association .(Page No.22-44)
 - (3) Audited Financial Statements (Page No.45-77)
 - (4) Demonetisation Affidavit.
 - (5) Income Tax Returns. (Page No.78)
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The Learned PCS for the Applicant has stated that the Company has filed Application within the limits laid down under Section 252 (3) 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/ SEC252/070812/ SPAPL/ MSN(JTA)/2018 dated 24.09.2018 stating as follows:-
 - (1) The Company did not file the annual accounts and annual returns for 2011-12 to 2015-16 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 website. There after Company was marked strike off in MCA Portal and STK-7 notice was also published in the Gazette on 19.08.2017.
 - (2) The Respondent further 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.
 - (3) The Respondent further states that the Tribunal may direct the Applicant to ensure statutory compliance under applicable provisions of the Companies Act, 2013 without any delay in future.
 - (4) 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.

- (5) The Respondent further stated that this Tribunal may be pleased to award cost at least Rs. 25,000/- towards cost of the proceedings and fee of council in favour of RoC and direct the Applicant Company to pay the cost through online payment in www.mca.gov.in .
- (6) 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.”

I have heard the PCS for the Applicant, who contended that, the Company is doing its business on a going concern basis. Further PCS contended that the Company is carrying on its business successfully from the date of incorporation .Further PCS contended that the Company has recently received the work order from “SIGMA CREATIONS” dated 30.06.2018 for construction of FRP gated check dams across with fiber reinforced shutters across the Kundelu Vagu under “NEERU-CHETTU” which costs around Rs. 127.07 Lakhs. The Company is unable to clear the orders as the Company is Struck- off by the Respondent.

Further, I have seen the latest Balance sheet as on 31st March 2017 of the Applicant Company. The Applicant Company is having Current Assets at Rs.20,59,226/- as on 31.03.2017. The Applicant Company is having Non- Current Liabilities at Rs. 2,175,000/- as on 31.03.2017.

4. After hearing the PCS 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.
5. 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.861/252/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. 30,000/- (Rupees Thirty thousand only) through online payment in 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.861/252/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)