

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P.No.25/BB/2021
U/s. 252 (3) of the Companies Act, 2013
R/w Rule 87A of the NCLT (Amendment)
Rules, 2017

Between:

Shri M. S. Shankar & Anr.
Shareholders of
Halda Office Systems Private Limited
No.616, Mahaveer Chalet
Basavabapura Main Road,
Bhattarahalli, Virgonagar,
Bengaluru - 560 049 - Petitioner

And

The Registrar of Companies, Karnataka
'E' Wing, 2nd Floor,
Kendriya Sadan, 17th Cross,
Koramangala,
Bengaluru - 560 034. - Respondent

Date of Order: 20th April, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (Through Video Conference):

For the Petitioner : Shri Hanumantha Raju. R
For the Respondent : None

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.No.25/BB/2021 is filed by Shri M. S. Shankar & Anr. Shareholders of Halda Office Systems Private Limited ('Petitioner'), U/s.252 (3) of the Companies Act, 2013, R/w Rule 87A of the NCLT (Amendment) Rules, 2017, by *inter alia* seeking to restore the



name of the Company namely M/s. Halda Office Systems Private Limited, on the Register maintained by the Registrar of Companies, Karnataka, Bengaluru as if its name had not been struck off from the rolls of the Register etc.

2. Brief facts of the case, which are relevant to the issue in question, are as follows:

(1) M/s. Halda Office Systems Private Limited (which is referred to as 'Company') is a Private Limited Company, was incorporated on 02.06.2000, under the Companies Act, 1956, bearing CIN: U72502KA2000PTC027183, and having its registered office at S.209, South Block 47, Dickenson Road, Bengaluru-560042. Its Authorised Share Capital is 5,00,000/- (Rupees Five Lakhs only) divided into 50,000 Equity Shares of Rs.10/- (Rupees Ten) each and Paid-up Capital is Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only) divided into 23,000 Equity shares of Rs.10/- (Rupees Ten) each. The main objects of the Company are *inter alia* to carry out the business of manufacturing, processing, assembling, servicing, producing, repairing, trading, promoting, marketing, importing exporting, maintaining and dealing in all kinds/types of furniture, fittings, accessories, spares, furniture accessories, parts etc.

(2) The Company started making revenue from operation in the initial years however, due to higher working capital expenditure the profits of the Company reduced gradually over the years. The business of the Company has continued during the FY 2019-20 as well through 31.03.2008 the date on which the notice for strike off was issued by the Registrar of Companies, Karnataka. It is stated that the Company has been running its business in the ordinary course, the details of Tax invoices issued by the Company to its customers for the good sold and services provided, details of GST return's filed



till January, 2021, Income Tax and Professional Tax paid till date to the Government. The Company is a going concern and the Company has ample business opportunities in the market. Further, the Company is also planning for business expansions in the near future, in fact the Company servicing orders to/from its customer/clients on regular basis.

- (3) The Company is a Private Limited Company run and managed by two shareholders cum Directors i.e. both Husband and Wife, the shareholders completely lacked professional support with regard to filing of financial statements and annual returns with the Registrar of Companies. On receipt of the strike off notice they were unaware of next course of action also they did not have any professional knowledge in this regard. Hence due to lack of professional advice they did not file the Financial Statements and returns on time. Thereafter, they discovered that the Company's status in the Ministry website was struck off from the Register of Companies and only then they realized the impact of such notice/order and the legal course they had to undergo in order to relieve the Company.
- (4) The Company has been maintaining its Bank Account with ICICI, Hoskote Branch, Bangalore vide Account Number 004705003508. The Bank Account is been used for transaction purpose with the customers/clients. Since incorporation, every year, the Company has been duly complying with respect to conducting shareholders and Board of Directors meeting and approval of Annual Accounts by the Board of Directors/Shareholders in Annual General Meeting. The Annual Accounts, Financial Statements, Board Report are approved by the majority shareholders. However, due to lack of professional knowledge/support the Company has failed to file necessary forms/e-forms on MCA portal.



- (5) The Company is a Private Limited Company run and managed by the Board of Directors, who is also husband and wife holding 100% shares in the Company. Even though the non-filing of the annual forms is a non-compliance, none is affected by this non-compliance as the Company is run and managed by the both family members i.e. husband and wife and as on date the Company does not have any financial obligation towards Banks and Financial institution.
 - (6) The Shareholders cum Directors of the Company submits that they shall ensure the Annual Return Form in respect of the FY 2000-2001 to 2019-2020 shall be filed by the Company within 30 days from the date of the order of restoration given by the Tribunal. As the Shareholders, the Petitioners who are also the Board of Directors of the Company are aware of the fact that no abnormal cash deposits was made into the Bank Account of the Company during the demonetization period and no notice from Income Tax Authorities has been served on the Company in this regard. Therefore, the instant Application/Petition filed by seeking the reliefs as prayed for.
3. The Registrar of Companies, Karnataka, has filed a Counter by way of Affidavit dated 11.03.2021, wherein, not opposing the main Company Petition, has *inter alia* stated as follows:
- (1) In pursuant to the verification of the MCA 21 portal in the month of March 2017 when action U/s.248(1) of the Companies Act, 2013 was initiated against the eligible Companies, it was seen that the Petitioner Company has not filed Balance Sheets or the Annual Returns since the Company incorporation. Therefore, the Respondent had reasonable cause to believe that the Petitioner Company is not carrying on any business or operation and therefore a notice in Form STK-5 was sent to the Company Directors to the address available in the MCA-21 Portal. Further, STK-1



notices that was sent to the Company, it was *inter alia* mentioned that the Petitioner Company has not been carrying on any business or operations for two immediately preceding financial years nor has filed Application U/s.455 of the Companies Act, 2013 and that the Respondent proposes to strike off the name of the Company from the Register of Companies as per Section 248 of the said Act, unless a cause is shown to the contrary within 30 days from the date of receipt of the STK-1 notices.

- (2) Since no cause was shown either to the physical notices or to the website, Gazette and newspaper notices either by the Company or its Directors, and also since no Balance Sheet or Annual Return was filed by the Petitioner Company till 21.06.2017 the day on which the list of defaulting Companies were crystallized, the Respondent proceeded to strike of the name of the Company from the Register of Companies and published a Notice in STK-7 in the Official Gazette on 26.04.2008 stating that from 31.03.2008 names of the Companies mentioned therein including the Petitioner Company have been struck off from the Register of Companies as per Sec.248(5) of the Act. The Respondent has complied with all the procedure prescribed U/S.248 of the Companies Act, 2013 before removal of the name from the register.
- (3) It is declared that there is no inquiry, investigation and Complaints against this Company and expressed no objection to restore the name of Company, as prayed for, however, subject to payment of cost and complying with pending statutory returns etc., within stipulated period as prescribed by the Tribunal.
4. Heard Shri Hanumantha Raju.R, learned PCA for the Petitioner, **through Video Conference**. We have carefully perused the pleadings of the Party and extant provisions of the Companies Act 2013, and the Rules made thereunder.



5. Shri Hanumantha Raju.R, learned PCA for the Applicant/Petitioner, while reiterating various averments made in the Petition, as briefly stated supra, has further submitted that the Company is active and non-filing of Annual Returns/Audited Reports in question, was neither intentional nor deliberate as it was happened inadvertently. Therefore, he urged the Tribunal to restore the name of Company.

6. It is not in dispute that the Registrar of Companies is conferred with power U/s. 248(1) to strike off the Company, if the Company has failed to commence its business within one year of its incorporation or a Company is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any Application within such period for obtaining the status of a dormant Company U/s. 455. However, Section 248(6) states that the Registrar of Companies, before finally striking off Company, has to satisfy himself that sufficient provision has been made for the realization of all amounts due to the Company and for the payment or discharge of its liabilities and obligations by the Company within a reasonable time, and, if necessary, obtain necessary undertakings from the Managing Director, Director or other persons in charge of the management of the Company. Though the impugned striking off the Company was in accordance with law, the Tribunal has to take into consideration of bona fide contentions of Petitioner seeking to restore name of Company, by taking a lenient view of the issue in the interest of justice and ease of doing business, instead of rigidly interpreting the law on the issue. It is also not in dispute that the instant Company Petition is filed in accordance with law; there are no investigations pending against the Company; the Respondent has not opposed the Petition; and left the issue to Tribunal to consider the case subject terms and conditions. Therefore, we are of the considered opinion that interest of justice would be met, if the



name of Company is restored as prayed for, however, subject to conditions mentioned below.

7. Hence, by exercising the powers conferred upon this Tribunal, U/s. 252 (3) of the Companies Act, 2013, and following the principle of ease of doing business, C.P.No.25/BB/2021 is hereby disposed of with the following directions:

- (1) The Registrar of Companies, Karnataka, the Respondent herein, is directed to restore the name of the Company in the Register maintained by the Registrar of Companies, Karnataka as if its name had not been struck off from the rolls of the Register, with restoration of all other consequential actions taken by the Registrar of Companies;
- (2) The Company is directed to file all the statutory document(s) along with prescribed fees/additional fee/fine as decided by Registrar of Companies within 30 days from the date of receipt of copy of the Order;
- (3) The Company's representative, who has filed the Company Petition, 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.20,000/- (Rupees Twenty Thousand Only)** to be paid online to the account of Central Government in favour of the Pay & Accounts Officer, Ministry of Corporate Affairs, Southern Region, Chennai, within three weeks from the date of receipt of this order, failing which the order will lapse.
- (5) The Petitioner is permitted to deliver a certified copy of this order to the Registrar of Companies;
- (6) On such delivery and after duly complying with above directions, the Registrar of Companies, Bengaluru 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 off the Company, and it will not come in the way of Registrar of Companies to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the Company prior or during the striking off the Company.
- (8) The Company is directed to resume its business operations, as expeditiously as possible, after the name of Company is restored, in terms of this order.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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