

135

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD

SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRIMADAN BHALCHANDRA GOSAVI- MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.07.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No. 13/252/HDB/2021
NAME OF THE COMPANY	O Areco Alloys India Pvt Ltd
NAME OF THE PETITIONER(S)	Sri Chandragiri Vamshi Krishna
NAME OF THE RESPONDENT(S)	ROC Telangana
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

ORDER

The application is allowed vide separate order.


**MEMBER
(TECHNICAL)**

Karim


**MEMBER
(JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1, HYDERABAD**

**CA No. 13/252/HDB/2021
U/s 252(3) of the Companies Act, 2013
r/w Rule 87A of the NCLT (Amendment) Rules, 2017**

**In the matter of:
M/s. ARECO ALLOYS INDIA PRIVATE LIMITED
(CIN:U27100TG2011PTC073506)**

Between:

Sri Chandagari Vamshi Krishna
S/o. Sri Radhakrishna Chandagari
Aged about 38 years, R/o.3-5-694/1, Flat No.205
Samvai Towers, Himayathnagar
Hyderabad – 500 029

...Applicant

Vs.

The Registrar of Companies
ROC, 2nd Floor, Corporate Bhawan
GSI Post, Tattiannaram, Bandlaguda, Nagole
Hyderabad, Telangana – 500 068

... Respondent

Date of Order: 16.07.2021

Coram:

Hon'ble Shri. Madan B. Gosavi, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / Counsels present:

For the Applicant : Ms. G. Sumathi, Advocate

Heard on: 09.07.2021



Date of Order: 16.07.2021

[Per: Bench]

1. This is a Company Application No.13/252/HDB/20201 filed under Section 252(3) of the Companies Act, 2013 (hereinafter referred to as the '**Act**') filed by Mr. Chandagari Vamshi Krishna, who is the Director and Shareholder of **M/s. Areco Alloys India Private Limited** (hereinafter referred to as the '**Company**') inter-alia, seeking direction to the Registrar of Companies, Hyderabad (the '**RoC**') to restore the name of the Company in the Register of Companies maintained by the Registrar of Companies.
2. The averments made in the Company Application are briefly described hereunder:-
 - a. The Company **M/s. Areco Alloys India Private Limited** is a Private Limited Company incorporated under the Companies Act, 2013 on 25.03.2011 with CIN: U27100TG2011PTC073506, having its Registered Office at Flat No.403, Elegant Apartments, Renuka Enclave, Rajbhavan Road, Somajiguda, Hyderabad - 500 082, Telangana.
 - b. The main objects of the Company are -
 - i. to carry on the business of manufacture, produce, process, assemble, treat, clad, fabricate, test, alter, clean, shape, improve, manipulate, grind, mill to deal in all varieties of items of metals used in automobiles, railways, ship building, telecom, water works etc.
 - ii. To carry on the business of manufacturing, producing, processing, melting, converting, cladding, fabricating, testing, manipulating ferrous and non-ferrous metals and other alloys.



Date of Order: 16.07.2021

A copy of the Memorandum and Articles of Association of the Company is annexed as Annexure-1 at page nos.21-33 of the application.

- c. The Authorised Share Capital of the Company is Rs.1,00,00,000/- (Rupees One Crore only) divided into 10,00,000 Equity Shares of Rs.10/- each and the subscribed and paid-up share capital of the Company is Rs.1,00,00,000/- (Rupees One Crore only) divided into 10,00,000 Equity Shares of Rs.10/- each. The shareholding pattern of the company as on 31.03.2019 and 31.03.2020 are shown at page nos. 4 & 5 of the application.
- d. It is the case of the Applicant that the Company did not file its Annual Returns and Financial Statements for the Financial Years from 2012-13 to 2018-19. The Applicant further submitted that the Company failed to file the Financial Statements and Annual Returns with the Registrar of Companies and not responding to the notices of the Registrar of Companies is due to oversight and unintentional.
- e. The Financial Statements for the year ended 31.03.2014 to 31.03.2020 clearly show that the Company is carrying on the business and conducting operations, but it has failed to file the Annual Returns and Financial Statements for the financial years from 2013-2019 within the time prescribed under Section 92 and under Section 137 read with Section 403 of the Companies Act, 2013.
- f. The Applicant stated that the Company is carrying on its business and the Total Assets and Revenue from Operations as on 31.03.2020 are as follows:
- | | |
|-----------------------------|--------------------|
| i. Total Assets | - Rs.1,74,85,252/- |
| ii. Revenue from Operations | - Rs.1,26,480/- |





Date of Order: 16.07.2021

- g. The Applicant stated that the Company undertakes to rectify the error and also undertakes not to repeat the mistake made due to inadvertence and is ready to comply with the compliances that are required under the Companies Act, 2013 within the prescribed time.
- h. The Applicant filed Affidavit stating that the Company has not deposited or received any cash during the period of demonetisation in violation of the laws.
- i. The Applicant stated that the matter involved in this petition is not pending before any Tribunal or any other Authority.
- j. The Applicant stated that the Application is within the limitation under Section 252(3) read with Section 433 of the Act.
- k. The Applicant stated that the Respondent has also frozen the DINs of the Directors associated with the Company as per the Condonation of Delay Scheme, 2018.
- l. The Applicant enclosed the following documents giving justification / substantiating that the Company has been operational as under:-
 - i. A copy of Certificate of Incorporation of the Company and Memorandum & Articles of Association of the company;
 - ii. Copies of Audited Financial Statements of the Company for the Financial Years from 2014-15 to 2019-20.
 - iii. Copies of Income Tax Return Acknowledgements for the Assessment Years 2012-13 & 2013-14; and
 - iv. Affidavit verifying no tainted money is deposited in the Bank Accounts during Demonetization Period.



Date of Order: 16.07.2021

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/SEC252/073506/AIPL/MSN/2021/200, dated 08.04.2021 stating as follows:-

- i. The Company had defaulted in filing the Financial Statements and Annual Returns for more than 2 Years and, hence the company was identified for strike off u/s 248(1). Accordingly, notice under Section 248(1) was issued to the company and its directors. Further STK-5 notice dated 05.05.2017 was issued and the same was published in the Government of India Gazette and publication in newspaper was made informing all the stakeholders about the list of companies struck off published in the website. Finally, the company was struck off and STK-7 notice dated 21.07.2017 was also published in the Gazette.
- ii. The Respondent stated that the Applicant has not filed any Balance Sheet or Annual Returns with the Respondent upto 31.03.2014. However, copies of the Audited Balance Sheet as at 31.03.2015 to 31.03.2020 are enclosed along with the petition.
- iii. The Respondent stated that the Applicant has not furnished ITR acknowledgements for the Assessment Years 2014-15 to 2020-21.
- iv. The Respondent stated that in view of the above, the application may be considered only after supporting documents are submitted by the Applicant.

4. 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

Date of Order: 16.07.2021

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."

5. We have heard the Counsel for Applicant, who contended that, the Company is doing its business as a going concern basis. The Counsel for Applicant further stated that the Company would 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.
6. Further, we have seen the latest Balance Sheet as on 31st March 2020 and Financial Statements for the year ending 31st March, 2020 of the Company. The Company is having Total Assets of Rs.1,74,85,252/- and Revenue from Operations is Rs.1,26,480/-.
7. After hearing the Counsel for 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 the Company to be restored in the Register of Companies as maintained by RoC.

ORDER

8. 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.13/252/HDB/2021 is disposed of with the following directions:



Date of Order: 16.07.2021

- 1) The Registrar of Companies, the Respondent herein, is ordered to restore the original status of the 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 Company is hereby directed to file all the pending Income Tax Returns forthwith and proof of the same shall be submitted alongwith this order to ROC for restoration of the name of the company.
- 3) ROC is directed to satisfy himself about complying with the directions given in the Order before restoring the name of the Company in the Register of Companies.
- 4) The 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;
- 5) The Company's representatives, who have filed the Company application is directed to personally ensure compliance of this order.
- 6) The restoration of the Company's name is also subject to the payment of cost of Rs.70,000/- (Rupees Seventy 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.13/252/HDB/2021".
- 7) The Applicant is permitted to deliver a certified copy of this order to ROC within thirty days of the receipt of this order.



Date of Order: 16.07.2021

- 8) On such delivery and after duly complying with the above directions, the Registrar of Companies, Hyderabad is directed to, on his office name and seal, publish the order in the official Gazette;
- 9) 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 Company prior or during the striking off of the Company.



**VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**



**MADAN B. GOSAVI
MEMBER (JUDICIAL)**

Syamala