

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

CP No.4721/252(1),252(3)/MB/C-II/2018

Under section 252(1), 252(3) of The Companies
Act, 2013 r/w Rule 87A of the NCLT Rules, 2016.

In the matter of

Thomas Weisel International Private Limited

CIN: U72200MH2005PTC155767

Reg. Office: 55/56, Free Press House, 215, Free Press Journal
Marg, Nariman Point, Mumbai, Maharashtra 400021.

Correspondence Address:

B-28 Defence Colony, Delhi 110024

Through its Power of Attorney Holder:

Mr. Mir Imtiyaz

... **Appellant**

V/s

Registrar of Companies, Mumbai

100, 5th Floor, Everest Building,
Marine Drive, Mumbai, 400002, Maharashtra.

... **Respondent**

Order delivered on: 12.07.2021

Coram:

Mr. Ashok Kumar Borah, Hon'ble Member Judicial

Mr. Shyam Babu Gautam, Hon'ble Member Technical

Appearance:

For the Appellant : Mr. Jeevesh Mehta, Advocate.

ORDER

Per: Shyam Babu Gautam, Member

1. This present Appeal has been filed under Section 252(1), 252(3) of The Companies Act, 2013 r/w Rule 87A of the NCLT Rules, 2016 by the Power of Attorney Holder Mr. Mir Imtiyaz, of the Company seeking restoration of the name of the Company in the Register of Companies maintained by the Respondent.
2. The Appellant submits that the Company has been incorporated on 31.08.2005 to carry out the following objects:

“To carry on in India and anywhere else in the world, business and technology process outsourcing, in any industry and to process data covering software infrastructure for any industry.....”.
3. The Company failed to file its Financial Statements and Annual Returns for ten years from the Financial Years 2008-2009 to 2017-2018.
4. Further it is stated that during the Operating Years since the year of its incorporation i.e. 2005. Due to the mismanagement and oppression of Mr. Praveen Chakravarty (Director) the Company suffered heavy monetary as well as business losses. Thus, the member of the Company through an extraordinary general meeting held on 24.11.2008, Mr. Praveen Chakravorty was removed from the directors of the Company by invoking Section 284 of the Companies Act 1956. The Company could not gain strength to carry out its operation in India and fell into the pool of losses, thus the members/shareholders of the company decided to cease the business Operation in India. Since the year 2008 the company has no business activities what so ever in India, at the same time the Company could

not comply with the statutory compliances due to lack of knowledge and lack of availability of any representative director/official in India.

5. The Appellant stated that the Company is having the Authorized Share Capital of Rs.5,50,00,000/- (Rupees Five Crores Fifty Lakhs Only) divided into 5500000 number of Equity Share of Rs. 10/- each (Rupees Ten) and the Issued, Subscribed and paid Up Capital of the Company is also Rs.5,37,90,550/- (Rupees Five Crore Thirty-Seven Lakhs Ninety Thousand Five Hundred Fifty Only) divided into 53,79,055 number of Equity Share of Rs.10/- each (Rupees Ten). The shareholding pattern of the Company is as Under:

Sr No.	Name of the Allotee / Subscriber	No. of Shares
1.	Thomas Weisel Partners LLC	9,49,988
2.	Thomas Weisel Partners (Mauritius)	44,29,067
	Total Shares Allotted	53,79,055

6. Further Appellant stated that the Company has the current bank account 05012320003234 in HDFC bank which was frozen by the Respondent and therefore the Petitioner Company is not able to have access to the said bank account to determine the current bank balance and to take out the bank statements for the purpose of maintaining the financial account to finalize books of account and filing of statutory returns before the Respondent.
7. The Appellant put reliance upon the following Judgement: -
Purushottamdass and Anr. (BulakidasMohata Co. Pvt. Ltd.) Vs. Registrar of Companies, Maharashtra and Ors. (1986) 60 Comp Cas 154 (Bom), Wherein the Hon'ble Bombay High Court has held inter alia that:

“the object of Section 560(6) of the Companies Act is to give chance to the Company, its members and creditors to revive the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and give them an opportunity of carrying on the business only after the Company Judge is satisfied that such restoration is necessary in the interest of justice.”

8. The Respondent, Registrar of Companies submitted his Affidavit in reply on 24.11.2020 explaining the following sequence of events leading to the striking off the name of the Company:
- (a) The Respondent issued Notice in Form STK-1 to the Company and its Directors informing his intention to strike off the name of the Company and requesting them to submit within thirty days a cause contrary to the said action.
 - (b) Further, as required under Rule 7 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 the name of the Company was published on the website maintained by the Ministry vide STK-5 dated 27.06.2017. Notices were also issued to the Company and its Directors concerned so as to receive their objections against the proposed action.
 - (c) In addition, the name was also published in the Official Gazette on 08.07.2017 and in leading English newspaper “Times of India” and a widely circulated Marathi newspaper “Maharashtra Times”.
 - (d) In the absence of any representation against the proposed strike off action, the Respondent struck off the name of the

Company on 11.08.2017 and the dissolution order was published on the website of the Ministry vide STK-7 on 18.08.2017.

9. The Appellant intend to continue its business operations. Therefore, in the interest of justice the name of the Company may be restored in the Register of Companies maintained by the Respondent
10. Given the above facts and circumstances, we are satisfied that the relief sought by the Company deserves to be allowed.

ORDER

The appeal be and the same is allowed. The impugned order dated 18.08.2017, striking off the Company's name, is set aside. The prayer for restoration of the Company in the register of companies is allowed. The name of the Company be restored in the Respondent's Register of Companies, subject to the following.

- i. The Appellant shall within two months hence file all the pending financial statements and annual and statutory returns with the Respondent as required under the Act and Rules made thereunder.
- ii. The Appellant shall within 30 days deliver a certified copy of this order and pay a sum of ₹.2,50,000/- (Rupees Two Lakh Fifty Thousand only) towards costs to the Respondent.
- iii. Upon compliance, the Respondent on receipt of the Order shall in his official name and stamp publish the order in the official gazette and restore the name of the Company in the register of companies forthwith.

- iv. The Order however shall not fetter the authority of the RoC to take appropriate action against the Company for any other violation either prior to 18.08.2017 or in the interregnum.
- v. Needless to say, failure to comply with any of the above conditions would nullify the effect of this order.

Sd/-

SHYAM BABU GAUTAM

Member (Technical)

12.07.2021

SAM

Sd/-

ASHOK KUMAR BORAH

Member (Judicial)