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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.871/252/HDB/2018
NAME OF THE COMPANY	Agoge Software Solutions Pvt Ltd
NAME OF THE PETITIONER(S)	Laxmaiah Dubbaka & 02 others
NAME OF THE RESPONDENT(S)	Agoge Software Solutions Pvt Ltd & Registrar of Companies Hyderabad
UNDER SECTION	252

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Venkata Ravi Reddy V. Anita.	Advocate	9562239039	V Anita

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
T. Sujan Kumar Reddy	Advocate	9160001435	TS
Rajeev Ratna on behalf of	Adv	9533631522.	

B. Jithender CGSC

ORDER

Orders passed vide separate order



Member(Judl)

Pavani

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

C.A. No. 871/252/HDB/2018
U/s 252 of the Companies Act, 2013

In the matter of Agoge Software Solutions Private Limited

1. Mr.Laxmaiah Dubbaka,
R/o.FL-A5, IIIrd Floor,
Indian Bank Apts,
Golconda X Roads Gandhinagar,
Hyderabad- 500 080.
2. Mr.Kurmana Anil
R/o.B1/4, MLA Qrts , Erramanzil Colony,
Erramanzil, NIMS,
Hyderabad- 500 082.

.... Applicants

Verses

1. **M/s. Agoge Software Solutions Private Limited**
R/o.1-1-530/Flat No. A5(3rd Floor),
Mushirabad,
Hyderabad- 500 020.
2. **The Registrar of Companies,**
Andhra Pradesh & Telangana,
2nd Floor, Corporate Bhavan,
Bandlaguda, Nagole, Hyderabad,

...Respondents

Date of order: 27.09.2018

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / Counsels Present:

For the Applicant : Shri V. Venkata Rami Reddy, Advocate

For the Respondent: Shri Rajeev Ratna on behalf of B.Jithender,
Advocate.

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

Heard on: 28.08.2018 & 18.09.2018

ORDER

1. The Application is filed by the Applicants, who are the Promoters & Shareholders of M/s. Agoge Software Solutions



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 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:-
 - (1) The 1st Respondent Company was incorporated under the Companies Act, 1956 on 25.08.2009 with Registrar of Companies, Andhra Pradesh and Telangana having its registered office at the address shown in the cause title of this application. The Company is in the Business of promote, establish, organize, maintain, operate, undertake, manage, develop, market and encourage in India and abroad, software development and consultancy services, software job works, etc., and allied activities.
 - (2) The Authorized Share Capital of the 1st Respondent 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, Subscribed and Paid-up Share Capital of the 1st Respondent 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.
 - (3) The Applicants aver that the Registrar of the Companies, Hyderabad has struck off the name of the 1st Respondent Company which has been displayed in the Master data maintained by the Ministry of Corporate Affairs. Prior to Strike Off the name of the Company, ROC has issued the notice in Form STK-1 pursuant to sub-section (1) and (2) of Section 248 of the Companies Act, 2013. ROC has displayed a Notice in Form STK-5 in the portal maintained by the Ministry of Corporate Affairs vide No. ROC/Hyderabad/STK-1/Revised dated 05.05.2017. ROC

has displayed another Notice in Form STK-7 in the portal maintained by the Ministry of Corporate Affairs vide No. ROC(H)/248(5)/STK-7/2017 dated 21.07.2017.

- (4) The Applicants aver that the Directors of the Company were under the opinion that the Annual Returns and Financial Statements for the years 2013-14, 2014-15, & 2015-16 & 2016-17 can be filed with the Registrar of Companies with additional fee as contemplated under Sections 92 and 137 read with Section 403 of the Companies Act, 2013 in the month of September, 2017 prior to conducting the forth coming Annual General Meeting as in the MCA Portal (www.mca.gov.in), there is no restriction on filing of any document with additional fee at any point of time. Other than the said reason, there was no intentional delay on the part of the Company and its Directors in complying with the provisions of the Companies Act, 2013.
- (5) The Applicants aver that the 1st Respondent Company had its operations from the date of its incorporation and is conducting the Meetings of Board of Directors as well as General Meetings regularly in Compliance with the provisions of the Companies Act, 1956 as well as provisions of Companies Act, 2013 whichever is in force at the relevant period. It is submitted that the 1st Respondent Company has held its Annual General Meetings regularly and within the time limit stipulated by the statute. First Respondent Company is having revenue of Rs. 25,93,261/- as on 31.03.2017.
- (6) The Applicants aver that 1st Respondent Company is filing the income tax returns on time and has not deposited any extra money during demonetization of Rs. 500/- and Rs. 1000/- notes in its Bank Account after 07th November 2016 except the routine money of the business transactions from time to time. The Company had done

business transactions through Specified Bank Notes (SBN) from 8th November, 2016 to 30th December, 2016 strictly adhering to the permitted receipts and payments as allowed by law and the same has been recorded in the books of accounts maintained by the Company.


- (7) The Applicants aver that there are no investigation proceedings pending against the 1st Respondent Company and its directors under section 206 to 212 of the Companies Act, 2013 and there are no petitions filed against 1st Respondent Company under the Insolvency and Bankruptcy Code, 2016.
 - (8) The Applicants further aver that the 1st Respondent Company shall be able to complete its filing of pending Annual Returns and Financial Statements, upon granting of the prayers stated in this application, and when the name is restored in the Register of Companies maintained by the ROC.
 - (9) It is further averred that the Applicant Company has enclosed the following documents giving justification / substantiating that the Company has been operational as under:-
 - (1) Certificate of incorporation.
 - (2) Memorandum and Articles of Association of the Applicant Company.
 - (3) Demonetization affidavit.
 - (4) Copy of Income Tax Returns for the Assessment years 2014-15 to 2017-18.
 - (10) The Learned Counsel for the Applicant Company 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/ 2nd 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/ SEC252/064834/ASSPL/ JTASSK/2018/3526 dated 17.09.2018 stating as follows:-

- i. The Company had defaulted in filing the Financial Statements and Annual Retruns for more than 2 Years and , 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.
- ii. The 2nd 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.
- iii. The 2nd Respondent states that the Tribunal may direct the Company to ensure statutory compliance under applicable provisions of the Companies Act, 2013 without any delay in future.
- iv. The 2nd Respondent has also urged this Tribunal to direct the Company to file a declaration from the Directors of the Company regarding deposit of cash in banks during the demonetization period.
- v. The 2nd 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.

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 Applicants, who contended that, the 1st Respondent Company is doing its business on a going concern basis. Further Counsel stated that due to inadvertence Company could not file the statutory returns on time. He further contended that, the 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 this Company.
5. Further, I have seen the latest Balance sheet as on 31st March 2017 of the Company. The Company is having total assets (Current Assets & Noncurrent assets) at Rs. 14,04,660/- and Revenue from operations at Rs.25,07,192 /- as on 31.03.2017.
6. After hearing the Learned Counsel for the Company 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.871/252/HDB/2018 is disposed of with the following directions:

- 1) The Registrar of Companies, the 2nd Respondent herein, is ordered to restore the original status of the Applicant/ 1st Respondent 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 / 1st Respondent 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 representatives, who 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.20,000/- (Rupees Twenty 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. 871/252/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.


27.9.18
RATAKONDA MURALI
MEMBER (JUDICIAL)