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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 25.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.885/252/HDB/2018
NAME OF THE COMPANY	Jaya Durga Logistics Pvt Ltd
NAME OF THE PETITIONER(S)	Buddiraju Chandra Mouli
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

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
T. Sujan Kumar Reddy	Advocate	9160001435	T. Sujan

ORDER

Orders passed vide separate order


Member(Judl)

Pavani

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

CA No. 885/252/HDB/2018
U/s 252 of Companies Act, 2013

In the matter of Jaya Durga Logistics Private Limited

Mr. Buddiraju Chandra Mouli,
Shareholder of Jaya Durga Logistics Private Limited
Registered Office: 4-61/1,
Ground Floor,
Beside Mother Teresa School,
Madhurapuram Bank Colony,
Vakalapudi Main Road,
Kakinada, East Godavari District,
Andhra Pradesh.

...Applicant

VERSUS

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

...Respondent

Order pronounced on 25th September, 2018

Coram

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Counsels / parties present:

For the Applicant Company: Ms. C.Shilpa, Advocate.

For the Respondent: Shri T.Sujan Kumar Reddy, CGSC

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

Heard on 03.09.2018 & 19.09.2018.

ORDER

1. The Applicant Mr. Buddiraju Chandra Mouli , shareholder of M/s. Jaya Durga Logistics Private Limited has filed the present Application 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 Applicant Company was incorporated under the Companies Act, 1956 on 21.08.2011, 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 applicant avers that the company is established to carry on the business to undertake and carry on business of ship, repairs, engineers, shipping agents, dry dockers, and ship managers, tug owners, vessels chartering, onshore and offshore drilling rig chartering, etc and to carry on the said business either as principles or agents , on commission or otherwise.
- c. The Authorised Share Capital of the Company is Rs.1,00,000/- (Rupees one Lakh only) divided into 10,000 (Ten Thousand) number of equity shares of Rs. 10/- (Rupees ten each) and the Issued, Subscribed & Paid Up Capital of the Company is Rs.1,00,000/- (Rupees one Lakh only) divided into 10,000 (Ten Thousand) number of equity shares of Rs. 10/- (Rupees ten each).
- d. It is averred in the Application that the Respondent, vide Public Notice ref ROC/HYD/STK-5/revised published in Official Gazette in Form STk-5 followed by another public notice Ref ROC(H)/248(5)/STK-7/2017 published in Official Gazette in form STK-7 dated 21.07.2017 and struck off the name of the Company from the Register of Companies stating that the Company has failed to commence its business within one year of its incorporation; or the Company is not carrying out any business operation for a period of two immediately

preceding years and has not made any application within such period for obtaining the status of a dormant company under Section 455.

- e. The Applicant avers that the company was incorporated on 21.08.2012 and from 2014-15 the company is not filing its ITR's and Balance Sheets to ROC. Since incorporation the company is active and there was never a situation which warranted the company to obtain the status of a dormant company under section 455.
- f. The Applicant avers that it has been regular in conducting the meetings of Board of Directors as well as General Meeting regularly in compliance with the provisions of the Companies Act, 1956. The company has filed its Income Tax Returns to the Income Tax Department up to the Assessment Year 2017-18. However due to inadvertence and oversight beyond the personal explanation and control, failed to file the same in time to the ROC. The non-filing is neither intentional nor deliberate but only due to an inadvertence accidental oversight.
- g. The Applicant Company further avers that it has filed an Affidavit, in connection with cash transactions in the Company during the Demonetization period (08.11.2016 to 30.12.2017).
- h. The Applicant Company avers that unless the present application is allowed and the name of the Company is restored on the Register of Companies maintained by the Registrar of Companies, the Applicant as well as its shareholders and all other stakeholders shall suffer irreparable loss and hardship and will be highly prejudiced.
- i. 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) Certified copies of memorandum and Articles of Association of the Company.
 - (3) Copy of Income Tax Returns for the Years 2014-15 to 2017-18.
 - (4) Copy of Annual Returns for the Years 2014-15 to 2016-17.
 - (5) Demonetisation Affidavit.
- j. The Learned Counsel for the Applicant Company has stated that the Company has filed its 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/ 082581/JDLPL/MSN(JTA)/2018/, dated 18.09.2018 stating as follows:-
- A. 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) 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, STK 5-A was also published in Andhra Jyothi in Telugu language and New Indian Express newspaper in English language on 15.05.2017 calling for objections from all stake holders. As there was no objections received in respect of the Applicant Company, it was marked strike off in MCA Portal and STK-7 notice was also published in the Gazette on 19.08.2017.
- B. 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.

- C. Respondent states that the Tribunal may direct the Applicant Company to ensure statutory compliance under applicable provisions of the Companies Act, 2013 without any delay in future.
- D. Respondent has also urged this Tribunal to direct the Applicant Company to file a declaration from the Directors of the Company regarding deposit of cash in banks during the demonetization period.
- E. 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.
- F. 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.”

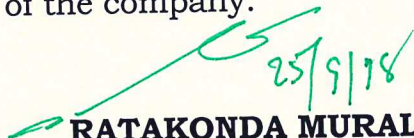
4. I heard the Learned counsel for the Applicant Company, who contended that, the Applicant Company is doing its business on a going concern basis. Learned counsel stated that due inadvertence and oversight, Company could not file the
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statutory returns on time. Learned Counsel further contended that, the Applicant 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 Applicant Company. The Applicant Company is having Assets (current assets and Non-Current Assets) at Rs. 2,16,01,105/- and the Revenue from operations is at Rs. 62,93,565/- as on 31.03.2017.
6. After hearing the Counsel for the Applicant 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.885/252/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 10,000/- (Rupees ten 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.885/252/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.


25/9/18
RATAKONDA MURALI
MEMBER (JUDICIAL)