

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

CP No.: 910/252/NCLT/MB/MAH/2018

Under section 252 of the Companies Act, 2013

In the matter of

Arti Leather & Accessories Private Limited,  
Flat No. 3832, Vijayanta Apartment, Plot No.  
117, Nehru Nagar, Kurla East, Mumbai-400024

Through its Directors

1. Mr. Atin Kumar Kamble
2. Mrs. Arti Atin Kamble

....Petitioners

v.

Registrar of Companies, Mumbai

..... Respondent

Date of Hearing: 07.09.2018

Order delivered on: 12.09.2018

**Coram :**

Hon'ble M. K. Shrawat, Member (J)

**For the Petitioner :**

Praveen Tiwari, Practising Company Secretary.

**For the Respondent :**

None Present.

*Per : M. K. Shrawat, Member (J)*

**ORDER**

1. This present petition/application has been filed on 28.03.2018 under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by the Directors of "Arti Leather & Accessories Private Limited" (hereinafter as **Company**) praying for restoration of Company's name in the Register maintained by the Registrar of Companies, Mumbai (hereinafter as **RoC**).
2. The Company was incorporated with the RoC, Mumbai on 03.07.2008 having CIN : U19116MH2008PTC184274.
3. The name of the Petitioner Company was struck off from the Register on account of the reasons that the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act. Consequentially, the RoC has published a public notice for Striking off and Dissolution of Company i.e. STK – 7 dated 10.07.2017.

**Submissions from the Petitioners:**

4. The Learned Representative for the Petitioner submits that the Company is trying to operate business transactions since incorporation and expecting the business in short period. The Petitioner could not file the Financial Statements with ROC inadvertently.
5. The Petitioners are interested in continuing the business by deploying their own funds. There is no borrowing for the Petitioner Company.
6. Further, the Company has not made any application for obtaining the status of Dormant Company under S. 455 of the Act. Further that, the Petitioner Company had never in the past, on its own, moved any application for Strike-off under S. 248 (2) of the Companies Act, 2013.
7. The Learned Representative further submitted that, the Petitioner Company now has all the remaining documents ready and prepared and is willing to file the same before the RoC, if so permitted. Further the Petitioner Company is willing to file any other necessary document which are required by the RoC.

**Submissions from the Respondent/RoC:**

8. The RoC has forwarded its report stating therein that the RoC has issued the notice in Form STK – 1 to the Petitioner Company on the ground that, the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act. But there is no communication from the side of the Petitioner Company. Hence, consequentially the RoC has issued public notice i.e. STK – 7 dated 10.07.2017 intimating that the name of Company is been struck-off from the Register of RoC.
9. It is also submitted that, the Petitioner Company has not filed the Annual Returns and Balance Sheets with the RoC for the F. Y. 2014-2015 and 2015-2016. And as the Statutory Returns were not filed for the said period, the RoC came to conclusion that, the Petitioner Company has ceased to its business. And consequentially the name has been struck-off from the Register of RoC.
10. However, it is further submitted in the said report that the RoC has no objection to restore the name of the Petitioner Company, if the Petitioner Company is willing to comply with the provisions of the Act, subject to imposition of Cost.

**Findings:**

11. That, the facts and circumstances of the case have enlightened that the Company is engaged in the leather business and it has not filed the financial statements with ROC since the year 2008-09 till date. The relevant documents which are to be filed, are ready with the Company and the Company is willing to file the same, if so permitted. Further that, the accounts of the Company were audited and the audited accounts have been approved for the years 2008-09 to 2016-17, annexed in the petition.

12. Although the Company has not generated any revenue in the year 2017, therefore it can be said to be a non-running concern. But it has been perused in the additional documents filed by the petitioner that the other companies having same directors as in this company have been revived by the other benches of this Tribunal in the matters of ARTI AGRO & FOODS PRIVATE LIMITED V. ROC, MUMBAI (CP No. 774/252/NCLT/MB/MAH/2018) vide order dated 05.07.2018 imposing a cost of ₹7.5 Lacs and in the matter of ARTI POWER & VENTURE PRIVATE LIMITED V. ROC, MUMBAI (CP No. 775/252(1)/2018) vide order dated 20.08.2018 imposing a cost of ₹7.00 Lacs. Therefore, in view of the order passed by the other benches, this Bench is of the view that prejudice be caused to the working of other companies due to strike-off of this company. Hence, this Company deserves to be revived.
13. That the Company has not deposited heavy cash in its Bank Account during the period of Demonetisation i.e. from 8<sup>th</sup> November, 2016 to 31<sup>st</sup> December, 2016, as noticed from the annexed Affidavit along with this Petition/Application.
14. Hence, upon considering the facts and circumstances of this present petition/application, this Bench is of the view that, it would be just and proper to order restoration of the name of the Petitioner Company in the Register of Companies maintained by the RoC.
15. Accordingly, this Petition/Application is allowed. The restoration of the Petitioner Company's name to the Register of Companies maintained by the RoC Mumbai, is hereby ordered, with a direction that the Company shall comply with the Provisions of the Act. Considering the cost imposed by respected coordinate Benches in group cases of this Company, it is hereby directed that revival is subject to payment of costs of ₹5,00,000/- (Five Lacs Only) to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai", within 7 days from the receipt of the duly certified copy of this Order, to this office. Consequentially thereupon the Bank Account/s if freezed shall get defreezed and to be operated by the Petitioner Company.
16. This Petition bearing No. 910/252/NCLT/MB/2018 is, therefore, disposed of on the terms directed above. The Learned RoC shall give effect of this Order only after perusal of the Compliance report of cost imposed. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by RoC.
17. Ordered accordingly. To be consigned to Records.

**Dated : 12.09.2018**

SD/-  
**M. K. SHRAWAT**  
**MEMBER (JUDICIAL)**