

13

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 31.08.2018

PRESENT: 1.Hon'ble member (J) **Shri Rajeswara Rao vittanala**,  
2.Hon'ble member (T) **Dr. Ashok Kumar Mishra**

CP/CA No	Purpose	Section	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP No.180/ 2017	For pronouncement of order	Sec 252(3)	Kamal Farms India Ltd.	Divya Prasad, PCS	ROC	

SL. NO.	NAME (IN CAPITAL) & PHONE NUMBER	REPRESENTATION TO WHOM	SIGNATURE
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PETITIONER/s : *None.*

RESPONDENT/s :

ORDER

*None present for the petitioner -  
CP dismissed by separate order*

*[Signature]*  
Member(T)

Prema Murray.

*[Signature]*  
Member(J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P. No. 180/BB/2017

U/s 252 of the Companies Act, 2013  
R/w Rule 87A of NCLT Rules, 2016

In the matter of

**M/s Kamal Farms India Private Limited**

Represented by its  
Director, Shareholder & Member

**Mr. Syed Fahad**

No. 3, Queen's Road Cross,  
Tank Bund Millers Road,  
Bangalore- 560052  
Karnataka, India

.... Petitioner

vs

The Registrar of Companies,  
Karnataka  
2nd Floor, E-Wing, Kendriya Sadan,  
Koramangla,  
Bengaluru-560 034

...Respondent

**Order Delivered on: 31<sup>st</sup> August 2018**

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Parties / Counsels Present:

For the Petitioner:

Smt. Divya Prasad,  
Practising Company Secretary

**Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)**

**ORDER**

1. The Present Company Petition bearing C.P. No. 180/BB/2017 is filed by Mr. Syed Fahad, Director, Shareholder & Member of M/s Kamal Farms India Private Limited ("**Petitioner**" herein), U/s 252(3) of the Companies Act, 2013, read with

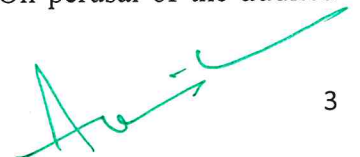
  
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Rule 87A of NCLT Rules, 2016, by inter-alia seeking for directing the Respondent to restore the name of Company in the Register of Companies.

2. The averments made in the petition, counter and affidavits inter alia are as follows:
  - A. M/s. Kamal Farms India Private Limited (hereinafter referred to as the “Company”) was incorporated on 18.08.1998 bearing CIN U15139KA1998PTC024098 having its registered office, at No. 3, Queen’s Road Cross, Tank Bund Millers Road, Bangalore- 560052, within the jurisdiction of this Tribunal.
  - B. The Petitioner has submitted that the aforesaid lapse was without any mala fide motive and on account of lack of cash flow.
  - C. It is also submitted by the Petitioner that the Company has prepared its financial statements and the same is ready for filing. It is also submitted that the impugned action, if not set aside, shall cause irreparable loss and injury.
  - D. The Company had filed the Affidavit dated 18.07.2018 of the Directors of the Company stating that the Company undertakes to file the overdue returns such as Balance Sheets, Annual Returns and such other documents that are necessary, within 30 days from the date of restoration of name of the Company by the Registrar of Companies.
  - E. The Registrar of Companies has filed a counter dated 06.07.2018 by inter alia, contending as follows:
    - i. On verification of the MCA 21 portal in the month of March 2017 when action under Section 248(1) of the Companies Act, 2013 was initiated against the eligible companies, it was noticed that the Company has not filed either the Balance sheet or the Annual Returns from the year **2011-12**. Therefore, the respondent issued notice in Form STK-1 dated 14.03.2017 to the company by inter-alia, stating that it had not been carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under Section 455 of the Companies Act, 2013. Though the company was given 30 days’ time, they did not submit any response to the impugned notice. Therefore, a consolidated notice in STK-5 in

English and Hindi was released as per Rule 7 of the Companies (Removal of name of companies from the Register of Companies) Rules, 2016, in the official website of the Ministry of Corporate Affairs on 28.04.2017 and in the official Gazette on 20.05.2017 and the same was published in the newspaper in English in Times of India and in Kannada in Vijay Karnataka (Kannada edition) on 13.05.2017.

- ii. It is stated that appropriate notice was given to the company regarding the impugned notice, viz., STK-1, STK-5 and STK-5A. However, the company has failed to avail the opportunity given to the company. Therefore, the impugned action was taken in accordance with law.
  - iii. However, the Registrar of Companies submit that there is no enquiry, investigation and complaints against the company and the application may be considered subject to undertaking given by the company to file all pending returns within 30 days in the MCA 21 Portal from the date of receipt of the order of the Tribunal and subject to the payment of costs.
3. In the said Affidavits dated 18.07.2018 of the Directors, it is submitted that the Company has not generated any revenue from the date of incorporation, due to which there was severe cash crunch in the Company.
  4. Heard, Smt. Divya Prasad, learned Practising Company Secretary appearing for the petitioner and Shri Lakshmaiah, Assistant for the respondent and also perused all the materials placed on record. Based on the submissions made in the Petition and the Affidavits, the learned Practising Company Secretary appearing for the petitioner urged the Tribunal to allow the petition in the interest of justice and equity.
  5. The Petitioner further states that the Company has annexed to the Petition, audited Balance Sheets of the Petitioner from 31.03.2011 to 31.3.2017. The Company is having meagre current assets.
  6. We have considered the pleadings of the parties along with the materials available on record. As admitted by the Directors in their Affidavits dated 18.07.2018, the Company has not generated any revenue from the date of incorporation, due to which there was severe cash crunch in the Company. On perusal of the audited



financials of the company, the company has not carried on any business from the financial year ending 31.3.2011 to 31.3.2017. Further on perusal of the report of the Registrar of Companies, Karnataka it is clear that the company is not carrying on any business and has not generated any revenue since incorporation. Hence it has not done any substantial business since incorporation. There are no 'just' grounds to order for restoration of the name of the Petitioner Company. No materials from the side of the Petitioner Company to establish that, it is a going concern at the time when its name was struck off. Therefore we are of the opinion that, the name of the Company cannot be restored. The Petition therefore deserves to be dismissed. The Petition is dismissed. No order as to costs.



**ASHOK KUMAR MISHRA**  
**MEMBER (TECHNICAL)**



**RAJESWARA RAO VITTANALA**  
**MEMBER (JUDICIAL)**

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