

**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 30.08.2018.

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.185/BB/2017	For pronouncement of order	Sec 252(3)	Golden Hatcheries Pvt. Ltd.	Divya Prasad, PCS	ROC	


SL. NO.	NAME (IN CAPITAL) & PHONE NUMBER	REPRESENTATION TO WHOM	SIGNATURE
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PETITIONER/s :

RESPONDENT/s :

ORDER

None appeared for Petitioner.
C.P is dismissed vide separate order.


MEMBER (T)


MEMBER (J)

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

C.P. No. 185/BB/2017

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

In the matter of

M/s Golden Hatcheries Private Limited

Represented by its
Director & Member

Mr. Syed Fahad

No. 3, Queens 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: 30th 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:

Ms. Divya Prasad,
Practising Company Secretary

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

ORDER

1. The Present Company Petition bearing C.P. No. 185/BB/2017 is filed by Mr. Syed Fahad, Director & Member of M/s Golden Hatcheries Private Limited (**"Petitioner" herein**), U/s 252(3) of the Companies Act, 2013, read with 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. Golden Hatcheries Private Limited (hereinafter referred to as the “Company”) was incorporated on 08.03.1988 bearing CIN U01222KA1988PTC008961 having its registered office, at No. 3, Queens Road Cross, Tank Bund Millers Road, Bangalore- 560052, within the jurisdiction of this Tribunal.
- B. The Petitioner has submitted that the aforesaid lapse was unintentional and all the statutory records are duly signed and ready for filing. It is also submitted that the impugned action, if not set aside, shall cause irreparable loss and hardship to the Directors of the Company who are Directors in other companies as well.
- C. The Registrar of Companies has filed a counter dated 05.07.2018 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. Heard, Ms. Divya Prasad, learned Practising Company Secretary appearing for the petitioner 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.
4. The Petitioner further states that the Company has annexed to the Petition, financial statements and annual returns of the Petitioner from 31.03.2015 to 31.3.2017 along with that of the year 2010-11. The details of annual filings made from 31.03.2015 till 31.03.2017 is mentioned herein under:

Sl. No.	Particulars	For the Financial year (in rupees)		
		2014-15	2015-16	2016-17
1	Miscellaneous expenditure to the extent not written off or adjusted- Formation of company expenditure	89,037/-	89,037/-	96,037/-
2	Cash and Bank Balances	15,963/-	14,637/-	8,963/-
3	Current liabilities	5,000/-	5,000/-	5,000/-

5. We have considered the pleadings of the parties along with the materials available on record. The company has not done any business.

6. Considering the above stated position of business, C.P. No. 185 of 2017 is liable to be dismissed and is accordingly dismissed. No order as to costs.



ASHOK KUMAR MISHRA
MEMBER (TECHNICAL)



RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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