

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

C.P. No. 317/BB/2018

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

In the matter of

M/s Offshore Financial Services Limited
Represented by its
Director, Shareholder & Member
Mr. Mukesh Gupta
32, Seshadri Road,
Bangalore- 560009
Karnataka, India

.... Petitioner

vs

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

...Respondent

Order Delivered on: 18th September 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:

Shri. Pradeep B. Kulkarni,
Practising Company Secretary,
M/s V. Shreedharan & Associates

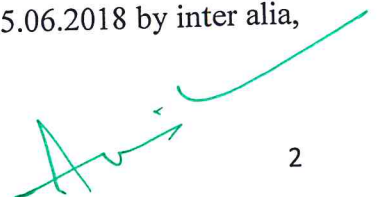
Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

ORDER

1. The Present Company Petition bearing C.P. No. 317/BB/2018 is filed by Mr. Mukesh Gupta, Director, Shareholder & Member of M/s Offshore Financial Services 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 restoration of the name of the Company.

2. The averments made in the petition, counter and affidavits inter alia are as follows:
- A. M/s. Offshore Financial Services Limited (hereinafter referred to as the “Company”) was incorporated on 22.03.1993 bearing CIN **U85110KA1993PTC014135** having its registered office, at 32, Seshadri Road, Bangalore- 560009, 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 inadvertence. It is also submitted by the Petitioner that the Company is a genuine company dealing in equipment leasing, hire purchase, factoring, venture capital project profiles advisor to management placement and recruitment services, financing for ICDs, bridge loans and investment activities.
 - C. It is further submitted that the Company seeks to consolidate accounts with its holding company Offshore Infotech Private Limited and that it can do so only when the name of the Company is restored. It is submitted by the Petitioner that the shareholder is willing to continue with the Company as it is advantageous and favourable to them and that the strike off of the Company is prejudicial to the interest of the Directors, shareholders, creditors, and the employees.
 - D. The Company had filed the Affidavit dated 27.03.2018 of the Directors of the Company stating that no abnormal amounts has been deposited in the Company’s Bank Accounts during Demonetization period and further states that the Company has not received any notice from any Income Tax Authorities.
 - E. The Company had filed another Affidavit dated 27.03.2018 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.
 - F. The Registrar of Companies has filed a counter dated 15.06.2018 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 **2014-15**. Therefore, the respondent issued notice in Form STK-1 dated 17.03.2017 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 Kannada in Vijay Karnataka and in English in the Times of India 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. The Petitioner has submitted an affidavit dated 16.05.2018 wherein it has been inter alia stated that the Company is neither dormant nor a shell company. It was further submitted that the Company was continuing its business till the date of strike off and continues to do so. The Petitioner has submitted an Affidavit of the Director dated 14.08.2018 stating that the restoration of the Company is very

important for the Directors, Shareholders and Creditors of the Company and stating as given below:

- a) The Company is neither a shell company nor a dormant company. It was carrying on business at the time of strike off. Striking off the Company would be prejudicial in the interest of the Directors, shareholders, creditors, and the employees.
 - b) The shareholder is willing to continue the Company since it is advantageous and favourable to them to have the same Company name for extending the business activities.
 - c) The Company is a Holding Company of Offshore Securities Private Limited (which was also under strike off and has been revived vide NCLT order dated 22nd December, 2017)
 - d) Offshore Infotech Private Limited is an associate company of Offshore Financial Services Limited.
 - e) Consolidation of accounts is required under sub section (3) of section 129 of the Companies Act, 2013 and this is possible only if the name of company is restored.
 - f) The company is also holding 8.03% of the total paid up share capital of Gardencity Residences Finance Ltd. and 27.5% of total paid up share capital of Offshore Infotech Pvt. Ltd.
 - g) Mr. Mukesh Gupta and Mr. G. Abdul Aleem, Directors of the Company are also on Board of Offshore Securities Private Limited. Further, Mr. Mukesh Gupta is also a director of Offshore Infotech Pvt. Ltd. and Gardencity Residences Finance Ltd., besides other companies.
4. The Petitioner has submitted another Affidavit of the Director dated 14.08.2018 stating that as on 31.03.2017, the Company has non-current investments of Rs. 1,01,50,000/- (Rupees One Crore One Lakh and Fifty Thousand only) as follows:

S. No.	Name of the Company	No. Of Shares held by Offshore Financial Services	Amount in Rupees
1.	Offshore Securities Private Limited (56.39% of the total holding)	5,60,000 of Rs. 10 each	56,00,000
2.	Garden city Residences Finance Ltd (8.03% of the total holding)	4,00,000 of Rs.10 each	40,00,000
3.	Offshore Infotech Private Ltd	55,000 of Rs. 10 each	5,50,000
	TOTAL	10,15,000 of Rs.10 each	1,01,50,000

5. Heard, Shri Pradeep B. Kulkarni, 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 Affidavit, the learned Practising Company Secretary appearing for the petitioner urged the Tribunal to allow the petition in the interest of justice and equity.
6. The Petitioner further states that the Company has annexed to the Petition, financial statements and annual returns of the Petitioner from 31.03.2014 to 31.3.2017. 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	Non-Current Assets	1,46,81,723/-	1,46,81,723/-	1,45,15,723/-
2	Current Assets	26,24,718/-	25,14,228/-	25,75,377/-
3	Current liabilities	83,01,943/-	83,16,943/-	83,31,943/-

7. We have considered the pleadings of the parties along with the materials available on record. As stated supra, the company is doing business. But, it could not comply with the Statutory Filings of the company due to inadvertence. Further, it has been submitted that the Company seeks to consolidate accounts with its holding company Offshore Infotech Private Limited and that it can do so only when the name of the Company is restored. Therefore, this Tribunal has to take a lenient view to permit the company to carry on the business subject to filing of annual returns and payment of costs in order to allow the company to function.
8. By exercising the powers conferred on this Tribunal under Section 252 of the Companies Act, 2013 read with Rule 87A of NCLT Rules, 2016, and the following the ratio laid down by this Tribunal in C.P. No. 209/BB/2018 dated 18th April, 2018, the Company Petition bearing C.P. No. 317/BB/2018 is disposed of with the following directions:
- a. The Registrar of Companies, the respondent herein, is ordered to restore the name of the Company;
 - b. The Company is directed to file all the statutory document(s) along with prescribed fees/ additional fee/fine as decided by Registrar of Companies within 30 days from the date on which its name is restored on the Register of companies by the Registrar of Companies;
 - c. The Company's representative, who has filed the Company Petition is directed to personally ensure compliance of this order;
 - d. The restoration of the Company's name is also subject to the payment of cost of **Rs.30,000/-**(Rupees Thirty Thousand only) to the account of Central Government in favour of the Pay & Accounts Officer, Ministry of Corporate Affairs, Southern Region, Chennai;
 - e. The Petitioner is permitted to deliver a certified copy of this order with Registrar of Companies within thirty days of the receipt of this order;
 - f. On such delivery and after duly complying with above directions, the Registrar of Companies, Bengaluru is directed to, on his office name and seal, publish the order in the official Gazette;
 - g. 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 Registrar

of Companies to take appropriate action(s) in accordance with law, for any other violations /offences, if any, committed by the Company prior or during the striking off of the Company.



ASHOK KUMAR MISHRA
MEMBER (TECHNICAL)



RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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