

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

CP No. 360/BB/2018

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

In the matter of

M/s Interactors Investment Participations India Private Limited

Represented by its

Member

Mr. Sudhir Prabhu

Millenia, 1 and 2 Murphy Road

Level 1, Tower B, No. 120, Ulsoor

Bengaluru – 560 008

...Petitioner

vs

The Registrar of Companies,

Karnataka

2nd Floor, E-Wing, Kendriya Sadan,

Koramangla,

Bengaluru – 560 034

... Respondent

Date of order: 25.09.2018

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 Sreenivas Babu Penugonda

Authorized Representative for the Petitioner

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

ORDER

1. The Present Company Petition bearing C.P. No. 360/BB/2018 is filed by Mr. Sudhir Prabhu, Member of M/s Interactors Investment Participations India Private Limited, 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 the Company in the Register of Companies.

2. The averments made in the petition, counter and affidavits inter alia are as follows:
 - A. M/s Interactors Investment Participations India Private Limited (hereinafter referred to as the “Company”) was incorporated on 16th November, 2011 bearing CIN U65990KA2011PTC061207 having its registered office at Millenia, 1 and 2 Murphy Road, Level 1, Tower B, No. 120, Ulsoor, Bengaluru – 560 008, within the jurisdiction of this Tribunal.
 - B. The Petitioner has submitted that Company has not commenced its business operations from the date of its incorporation due to non-availability of viable projects. The Company is in the process of commencing its operations and filing its pending financial statements with the Respondent. The Company was not carrying on business and the filings were not done due to non-availability of viable projects and some managerial issues.
 - C. The Company has filed Affidavit **dated 8th May, 2018** by the Member 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 National Company Law Tribunal.
 - D. In order to corroborate their submission that the Company is carrying on business, the Petitioner has filed provisional balance sheet as at 31st March, 2018 and an agreement for software services between Robust Designs India Private Limited and the Company dated 14th December, 2017.
 - E. The Registrar of Companies has filed a counter dated 3rd July, 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 of incorporation. Therefore, the Respondent issued notice in Form STK-1 dated 17.03.2017 and 31.03.2017 to the Company and its directors respectively, 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 petition 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.

- ii. No cause was shown either to the physical notices or to the website, Gazette and newspaper notices either by the Company or its Directors. Also since no Balance Sheet or Annual Return was filed by the Company till 21.06.2017, the impugned action was taken in accordance with law.
 - iii. However, the Registrar of Companies submit that there is no prosecution, inspection, technical scrutiny and complaint against the Company and the petition 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, Shri Sreenivas Babu Penugonda, authorized representative for the Petitioner and also perused all the materials placed on record. The authorized representative relying on the material placed on record, 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, audited financial statements of the Petitioner from 31.03.2013 to 31.3.2017 and provincial balance sheet as at 31st March, 2018.
 5. We have considered the pleadings of the parties along with the materials available on record. As stated by the PCS, the Company is carrying current assets to the tune of Rs. 2,94,630/- apart from long term borrowings to be discharged as of 31.03.2018 and further has contracts to be executed, and hence restoration of the Company is covered under "just" ground as entailed in Section 252(3) of the Companies Act, 2013. However, it could not comply with the Statutory Filings of the company due to non-availability of viable projects and some managerial issues. Further, it is pertinent to consider that the Company has employees whose interests may be aggrieved if the Company is not 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.

6. 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 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. 360/BB/2018** is disposed of with the following directions:
- a. The Registrar of Companies, Karnataka, the respondent herein, is ordered to restore the name of the Company in the Register of Companies maintained by the Registrar of Companies, Karnataka as if its name had not been struck off from the Register;
 - 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. 50,000/- (Rupees Fifty 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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