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**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 28.09.2018

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.437/BB/2018	For pronouncement of order	Sec 252	M/s Gnanakshi Communications India Pvt Ltd	Dhiren N P PCS	ROC	

SL. NO. NAME (IN CAPITAL) & PHONE NUMBER

REPRESENTATION TO WHOM

SIGNATURE

PETITIONER/s: **DHIREN N.P.**
9740722699

**Gnanakshi
Communications
India Pvt Ltd**

Dhiren

RESPONDENT/s:

ORDER

Heard Shri Dhiren N.P., learned counsel for the Petitioner. CP disposed of by separate order.

Amit
Member(T)

Prema Murray - Steno.

Kyrid
Member(J)

Amit

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

C.P. No. 437/BB/2018

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

In the matter of

M/s Gnanakshi Communications Inida Private Limited

Represented by its
Shareholders & Members

Mr. Basavaradhy Chandrashekaradhy Mallaradhy

Ms. Surabhi Mallaradhy

#740, 23rd Cross, 23rd Main,
1st Phase, Ideal Homes Houses,
R.R. Nagar, Bangalore- 560098
Karnataka, India

.... Petitioner

vs

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

...Respondent

Order Delivered on: 28th 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. Dhiren N.P.
Practising Company Secretary

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

ORDER

1. The Present Company Petition bearing C.P. No. 437/BB/2018 is filed by Mr. Basavaradhy Chandrashekaradhy Mallaradhy and Ms. Surabhi Mallaradhy, Shareholders & Members of M/s Gnanakshi Communications Inida 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. Gnanakshi Communications Inida Private Limited (hereinafter referred to as the **"Company"**) was incorporated on 27.08.2013 bearing CIN U22219KA2013PTC070688 having its registered office, at #740, 23rd Cross, 23rd Main, 1st Phase, Ideal Homes Houses, R.R. Nagar, Bangalore- 560098, 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 the fact that the Directors being small entrepreneurs were not well versed with company law and compliance related matters and despite their sincere efforts, were not able to engage the services of a professional to complete the annual filings.
 - C. It is also submitted by the Petitioner that the Company is a genuine company and has filed its Income Tax Returns till the Assessment Year 2017-18. It is also submitted that the Company is in operation and the impugned action, if not set aside, shall cause irreparable loss and injury.
 - D. It is submitted that the Members in their meeting held on 25th April 2018 have duly resolved to restore the name of the Company and do all action to streamline the activities of the Company in compliance with requisite statutory procedures. They also have resolved to engage the service of professionally qualified consultants to the future operations of the Company to avoid any such non-compliance of the statutory provisions.
 - E. The Company had filed the Affidavit dated 19.06.2018 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.
 - F. The Company vide the same Affidavit dated 19.06.2018 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.

G. In order to corroborate their submission that the Company was carrying on its business, the Petitioner has filed copy of its Income Tax Returns Acknowledgment for the Assessment Years 2014-15, 2015-16, 2016-17, and 2017-18. The Petitioner has also filed a copy of the Bank Statements from 01.09.2016 to 31.01.2017 showing their active involvement in business.

H. The Registrar of Companies has filed a counter dated 10.08.2018 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 **2013 onwards**. 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 17.07.2017 and in the official Gazette on 29.07.2017.
- 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, Shri Dhiren N.P., 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, 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 31.03.2014 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	23,47,847/-	25,47,356/-	27,29,090/-
2	Current Assets	51,01,313/-	14,98,647/-	16,15,630/-
3	Total Revenue	46,88,810/-	35,37,539/-	2,53,339/-
4	Current liabilities	25,54,499/-	19,49,268/-	23,65,602/-
5	Non-current liabilities	48,13,240/-	19,91,550/-	19,91,550/-

5. 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 as the Directors being small entrepreneurs were not well versed with company law and compliance related matters and despite their sincere efforts, were not able to engage the services of a professional to complete the annual filings. 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. 437/BB/2018 is disposed of with the following directions:

- a. The Registrar of Companies, the respondent herein, is ordered to restore the name of Company in the Register of Companies;
- 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)