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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.447/BB/2018	For pronouncement of order	Sec 252	M/s Edutech Publishing Pvt Ltd	Prashanth Bhat PCS	ROC	

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

REPRESENTATION TO WHOM


SIGNATURE

PETITIONER/s :

PRASHANT BHAT (9449127813)

RESPONDENT/s :

ORDER

Heard Shri Prashant Bhat, learned PCS for the Petitioner. CP disposed of by separate order.


Member(T)


Member(J)

Prema Murray – Steno.

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

CP No. 447/BB/2018

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

In the matter of

M/s Edutech Publishing Private Limited

Represented by its

Shareholder

Mr. Ajay Kumar

No. 138, 1st Floor, P.K. Jewellers Building,

Near Vidyaranyapura Last Bus Stop,

Vidyaranyapuram,

Bengaluru – 560 010

...Petitioner

vs

The Registrar of Companies,

Karnataka

2nd Floor, E-Wing, Kendriya Sadan,

Koramangla,

Bengaluru – 560 034

... Respondent

Date of order: 28.09.2018

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:

Mr. Prashanth Bhat

PCS & Authorized Representative for the Petitioner

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

ORDER

1. The Present Company Petition bearing C.P. No. 447/BB/2018 is filed by Mr. Ajay Kumar, Shareholder of M/s Edutech Publishing 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 maintained by the Registrar of Companies, Karnataka as if its name had not been struck off from the rolls of the Register.

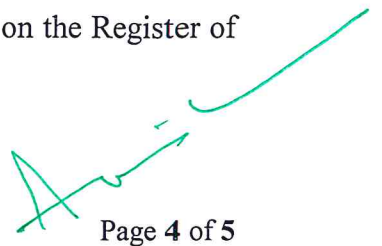
2. The averments made in the petition, counter and affidavits inter alia are as follows:
 - A. M/s Edutech Publishing Private Limited (hereinafter referred to as the “Company”) was incorporated on 14th September, 2011 bearing CIN U74990KA2011PTC060399 having its registered office at No. 138, 1st Floor, P.K. Jewellers Building, Near Vidyaranyapura Last Bus Stop, Vidyaranyapuram, Bengaluru – 560 010, within the jurisdiction of this Tribunal.
 - B. It is also submitted by the Petitioner that the Company has been active since incorporation and successfully carrying on business and has also been maintaining all the requisite documentation, as per the provisions of the Companies Act, 2013.
 - C. The Petitioner has submitted that the accounts were duly prepared and audited and Annual General Meetings were conducted within due time as per law. The Company received show cause notice from the Registrar of Companies, Karnataka and was preparing to file the returns with the office of the Registrar of Companies and mean time the Company was struck off by the RoC. So, the Company was unable to file the pending Annual Returns.
 - D. The Company has filed Affidavit **dated 11th July, 2018** by the Shareholder of the Company stating that no abnormal amounts have 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 has filed Affidavit **dated 11th July, 2018** by the Shareholder 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.
 - F. In order to corroborate their submission that the Company is carrying on business, the Petitioner has filed copies of the income tax return acknowledgement for the assessment years 2013-2014, 2014-2015, 2015-16, 2016-17 and 2017-18 and copies of invoices raised in favour of the Company along with bank statements of the Company for the period 01.04.2016 to 31.03.2018.

G. The Registrar of Companies has filed a counter dated 25th 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 2013-14. 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 Prashanth Bhat, PCS for the Petitioner and also perused all the materials placed on record. The PCS 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, financial statements and annual returns of the Petitioner from 31.03.2013 to 31.3.2017. The details of the audited financial statements 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
	Revenue from Operations	13,29,725/-	8,13,251/-	17,04,515/-
1	Non-Current Assets	12,03,420/-	9,29,676/-	6,39,387/-
3	Long Term Borrowings	3,85,520/-	2,17,090/-	4,38,520/-
4	Current Liabilities	2,48,657/-	1,90,807/-	2,76,199/-

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 on business and has non-current assets worth Rs. 6,39,387/- as on 31.03.2017. Further, it is pertinent to consider that the Company has employees, in favor of whom the Company has incurred employee benefit expenses to the tune of Rs. 7,04,577/- for financial year 2016-2017, 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. 447/BB/2018** is disposed of with the following directions:
- The Registrar of Companies, Karnataka, the respondent herein, is ordered 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 rolls of the Register;
 - 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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