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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI BIKKI RAVEENDRA BABU – MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 04.09.2018 AT 10.30
AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No. 786/252/HDB/2018
NAME OF THE COMPANY	MCA Spirits India Pvt Ltd
NAME OF THE PETITIONER(S)	Manoj Rupani
NAME OF THE RESPONDENT(S)	Registrar Of Companies, Hyderabad
UNDER SECTION	252

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
C. Shilpa	Adv	eshilpatsa@gmail.com 9985183500	es

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
K. Harish Reddy	Advocate	9022444366	KHR

ORDER

Learned counsel Ms.C.Shilpa present for Applicant. Learned counsel Mr.K.Harish Reddy present for ROC.

Order pronounced in open court.

Application is allowed.

Vide separate order.


MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CA No.786/252/HDB/2018

U/s. 252 (3) of the Companies Act, 2013

Read with Rule 87A of the National Company Law
Tribunal Rules, 2016 and as amended by the National
Company Law Tribunal (Amendments) Rules 2017.

**In the matter of M/s. MAC SPIRITS INDIA PRIVATE
LIMITED.**

Mr. Manoj Rupani,
Shareholder of M/s. MAC Spirits India Private Limited,
R/o. 8-2-693/2/4-5, SF - 2, Devikunj, Road No.12,
Mithila Nagar, Banjara Hills,
Hyderabad - 500 034.

**...Appellant/
Shareholder**

Versus

The Registrar of Companies, Hyderabad
For Andhra Pradesh and Telangana,
Corporate Bhavan, 2nd Floor,
GSI Post, Tattiannaram,
Bandlaguda, Hyderabad,
Telangana - 500 068.

...Respondent

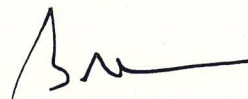
Date of Order: 04.09.2018

Coram:

Hon'ble Shri Bikki Raveendra Babu, Member Judicial

Counsels/Parties Present:

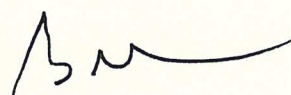
For the Appellant/Shareholder : Ms.C.Shilpa
Counsel



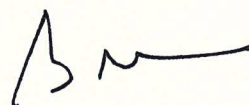
For the Respondent/RoC : Mr.K.Harish Reddy,
CGSC.

ORDER


1. M/s. MAC Spirits India Private Limited hereinafter called as 'Company' and was incorporated on 31.01.2008 vide CIN:U15510TG2008PTC057397. Its Registered Office is situated at Narayanaguda in Hyderabad. Company has Two Shareholders cum Directors. This Appeal is filed by the Shareholder (Mr.Manoj Rupani) under section 252 (3) of the Companies Act, 2013 Read with National Company Law Tribunal Rules, 2016 Read with Rule 87A of the National Company Law Tribunal (Amendment) Rules, 2017 seeking restoration of name of the Company (M/s. Mac Spirits India Private Limited) in the Register of Companies maintained by the Office of Registrar of Companies.
2. The main object of the Company is to carry on the business of brewers distillers, blenders, bottlers, maltars, importers, exporters, manufactures and dealers in either wholesale or as retailers of spirits and liquors of every description including Whisky, Gin, Rum, Brandy, Wines, Beer and any other description of liquor, aerated, mineral and artificial waters and other drinks whether "intoxicating or not and act as agents or distributors of all such products".
3. The Registrar of Companies for Andhra Pradesh and Telangana struck off the Company's name from the Register of companies, due to non-filing of Statutory reports namely Financial Statements and Annual Returns for the financial years 2011-12 to 2016-17.



4. The Authorised share capital of the Company is Rs.5,00,000/- (Rupees Five Lakh Only) divided into 50,000 (Fifty Thousand Only) number of Equity shares of Rs.10/- (Rupees Ten Only) each, and the Current Issued, Subscribed and Paid up capital of the Company is Rs. 1,00,000/- (Rupees One Lakh Only) divided into 10,000 (Ten Thousand Only) Equity shares of Rs. 10/- (Rupees Ten Only) each.
5. It is submitted that the Company is doing business since its incorporation. Due to an inadvertence, the personal explanation and control, the Promoter Directors were failed to file the RoC filing for the Financial Years 201-12 to 2016-17 in time.
6. It is submitted that Appellant's Company is regular in conducting the Annual General Meetings and Board meetings in compliance with the provisions of the Companies Act, 1956/2013. The Directors of the Company now decided to gear up the operations of the Company by seeking restoration of the name of the Company in the Register of Companies maintained by the Registrar of Companies. Company undertook to file the outstanding statutory returns, by paying additional fee as applicable.
7. It is further submitted by the Appellant that he filed Balance Sheets for the financial years 2011-12 to 2016-17 and IT Returns acknowledgments for the assessment years 2015-16 to 2017-18. The Appellant also filed an affidavit stating that the Company did not deal with receipts/deposits of cash, during demonetisation period from 8.11.2016 to 31.12.2016.




8. The Registrar of Companies in his representation stated that he has no objection, if this Tribunal considered the request of the Appellant for restoration of the name of the Company in the Register of Companies subject to the conditions that Applicant shall comply the statutory requirements and file an Affidavit relating to deposits of cash in Banks during demonetisation period. RoC also requested to award cost of the proceedings.
9. Section 252(1) enables any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal on the following ground:-
 - a) Removal of name of the company from the Registrar of Companies is not justified for the reason that the grounds stated in the orders of the Registrar are not in fact present.
10. Section 252(3) enables the company, its members, Creditors Workmen or employee to seek for restoration of the Company on following grounds in case the Company having its name struck off from the Register of Companies:-
 - a) Company was carrying on business or in operation on the date on which the Company was struck off.
 - b) Otherwise it is just to restore the name of the Company.
11. In the instant case the Annual Returns filed by the Appellant disclose that the Company was carrying on business on the date on which it was struck off. This Appeal is filed within time. This Appeal is disposed of with the following directions:-



- i) The Registrar of Companies, the Respondent herein, is ordered to restore the original status of the Company as if the name of the Company has not been struck off from the Register of Companies and take all consequential actions such as change of Company's status from 'Strike Off' to 'Active' (for e-filing), restoring the status of DIN and etc.,
- ii) The Appellant is directed to file all the statutory document (s) along with prescribed fees/additional fee/fine as decided by RoC within thirty days from the date on which its name is restored on the Register of Companies by the RoC;
- iii) The restoration of the Company's name is also subject to the payment of cost of Rs.10,000/- (Rupees Ten Thousand Only) through online payment in www.mca.gov.in under miscellaneous fee by mentioning particulars as "payment of cost for revival of Company pursuant to orders of Hon'ble NCLT in CA No.786/252/HDB/2018";
- iv) The Appellant is permitted to deliver a certified copy of this order with RoC within thirty days of the receipt of this order;
- v) On such delivery and after duly complying with above directions, the Registrar of Companies, Hyderabad is directed to, on his office name and seal, publish the order in the Official Gazette;



- vi) The Appellant shall publish a notice in leading newspaper in the district, regarding restoration of company after taking approval of the draft notice from RoC. The RoC is directed to verify the draft notice and approve the same if it is in order.
- vii) RoC is directed to publish in the Official Gazette of the Government of India with regard to the restoration of the name of the Company in the Register of Companies maintained by the Office of the Registrar of Companies at the expenses of the Appellant.


BIKKI RAVEENDRA BABU
Member Judicial