

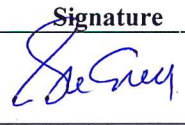
NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL


ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 14.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CA No.857/252/HDB/2018
NAME OF THE COMPANY	Memar Constructions Pvt Ltd
NAME OF THE PETITIONER(S)	Shamshad Ahmed & Memar Constructions Pvt Ltd
NAME OF THE RESPONDENT(S)	Registrar of Companies, Hyderabad.
UNDER SECTION	252

Counsel for Petitioner(s):

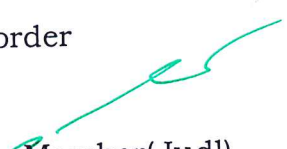
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
SHAIK GHOUSE	PCS	stgouse@gmail.com 98484 67803	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
K. Harish Reddy	Advocate	9052441366	

ORDER

Orders passed vide separate order


Member(Judl)

Pavani

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

CA No. 857/252/HDB/2018
U/s 252 of Companies Act, 2013

In the matter of Memar Constructions Private Limited

1. Mr. Shamshad Ahmed
22-3-626/A/1,
Zohra Nagar,
Hyderabad- 500 002,
Telangana.

2. M/s. Memar Constructions Private Limited
R/o. Flat No. 104, 5-9-216 Naimath,
Apartments, Chirag Ali Lane,
Hyderabad,
Telangana- 500 082.
...Applicant

VERSUS

The Registrar of Companies
Andhra Pradesh & Telangana
2nd Floor, Corporate Bhawan
GSI Post, Tattiannaram, Nagole, Bandlaguda
Hyderabad – 500068

...Respondent

Order pronounced on 14th September, 2018

Coram

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties/ Counsels present:

For the Applicant : Shri Shaik Gouse, PCS
For the Respondent : Shri T.Sujan Kumar Reddy, CGSC

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 23.08.2018 & 12.09.2018

ORDER

1. The Application is filed by Mr. Shamshad Ahmed, Shareholder of M/s Memar Constructions Private Limited has filed present




Application under Section 252 of the Companies Act, 2013, with a prayer for issuance of directions to the Registrar of Companies, Hyderabad to restore the name of the Company in the Register of Companies and to pass such order as deemed fit in the circumstances of the case.

2. The averments made in the Company Application are briefly described hereunder:-

- (a) The Company was incorporated under the Companies Act, 1956 on 27.01.2009, under the provisions of Companies Act, 1956, bearing CIN: U45204TG2009PTC062610 and having its registered office as shown in the cause title of the Application.
- (b) The Authorized share capital of the Company is Rs.1,00,000/- divided into 10,000 Equity Shares of Rs.10/- each. The issued, subscribed and paid up share capital of the Company is Rs.1,00,000/- divided into 10,000 Equity shares of Rs.10/- each.
- (c) The Company is into Real Estate, Constructions, development of properties and buildings and other allied activities.
- (d) The Applicants aver that the Registrar of Companies, Hyderabad, issued a Public Notice in the Official Gazette of India in Form No.STK-5, dated, 05.05.2017, proposing to remove the name of the Company from the Register of Companies. Consequently, in the absence of reply from the Company the Registrar of Companies, Hyderabad vide its Order, i.e., Notice of striking off and Dissolution in Form No. STK-7, dated, 21.07.2017, removed the name of the Company, from the Register of Companies and marked the Company as struck-off on the MCA Portal on the ground that the Company has not been carrying on any business or operation for a period of two immediately preceding financial years.

- (e) It is averred that Company is active from the date of incorporation and generating revenues. It is also stated that it has also held its annual general meeting for the financial year ended 31st March 2015, 31st March 2016, and 31st March 2017.
- (f) It is averred that the Company has not filed statutory annual returns and financial statements for the financial year ending 31.03.2015 and 31.03.2016 and could not file the same for the financial year ending 31.03.2017. The non-filing of annual financial statement and returns with the Respondent is purely unintentional and not will full act. It is averred that the company has filed the income tax returns with Income tax authorities for the financial year 2015-16 and 2016-17.
- (g) It is further averred that the Company has generated revenue as under:-
- | | | |
|----------|---|---------------|
| 2016-17 | : | Rs.8,56,700/- |
| 2015-17 | : | Rs.7,54,380/- |
| 2014-15: | | Rs.6,45,467/- |
- (h) The Applicant avers that company is not involved for routing the black money, whether directly or indirectly during the demonetization period i.e, from November 8, 2016 to December 31, 2016.
- (i) The applicant avers that in the event of revival of the company and restoration of the name of the company in the Register maintained by the respondent, the company will file all outstanding statutory documents.
- (j) It is averred that, unless the present application is allowed and the name of the company is restored on the Register of Companies maintained by the Respondent, the Applicant as well as the Company, its shareholders and directors shall suffer irreparable loss and hardship and will be highly prejudiced.

- (k) It is further averred that the Applicant has enclosed the following documents giving justification / substantiating that the Company has been operational as under:-
- (1) Certificate of incorporation.
 - (2) Copy of Memorandum and Articles of Association of the Company.
 - (3) Demonetisation period affidavit has been filed.
3. The Registrar of Companies/Respondent herein Hyderabad denied all the averments made in the Application except those which are specifically admitted herein and submitted his report vide memo No. ROCH/ LEGAL/ SEC252/ 062610/ MCPL/ JTASSK/2018/ 3317 dated 10.09.2018 stating as follows:
- a. The Company did not file the annual accounts and annual returns for 2014-15, 2015-16, hence the company was identified for strike off u/s 248(1) and STK-1 notice was issued to the company and its directors and STK-5 notice dated 05.05.2017 was issued and published in the Gazette and a paper publication was also issued informing all the stake holders about STK-5 notice published in MCA website. There after Company was marked strike off in MCA Portal and STK-7 notice was also published in the Gazette on 19.08.2017.
 - b. The Respondent states that it has no objection if the Tribunal considers the present Application for restoration of the name of the Company back to the Register of Companies U/s 252 of the Companies Act, 2016 subject to such conditions as specified therein.
 - c. The Respondent states that the Tribunal may direct the Company to ensure statutory compliance under applicable provisions of the Companies Act, 2013 without any delay in future.
 - d. The Respondent has also urged this Tribunal to direct the Company to file a declaration from the Directors of the
- 

Company regarding deposit of cash in banks during the demonetization period.

- e. The Respondent further stated that this Tribunal may award cost of the proceedings in favour of RoC and direct the Applicant Company to pay the cost through online payment in www.mca.gov.in.

Section 252 (3) stipulates that

“Section 252(3): If a Company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section(5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.”

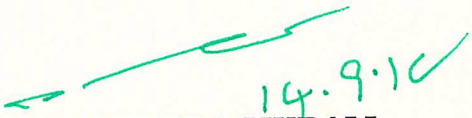
4. I heard the PCS for the Applicant Company, who contended that, the Applicant Company is doing its business on a going concern basis. Further PCS stated that due accidental oversight, counsel could not file the statutory returns on time. PCS further contended that, the Applicant Company will file necessary financial statements and Annual Returns soon after restoration of the name of the Company with the Registrar of Companies, Hyderabad and prayed the Tribunal to revive this Company.
5. Further, I have seen the latest Balance sheet as on 31st March 2017 of the Applicant Company. The Applicant Company is having Assets (current assets and Non-Current Assets) at Rs.

11,32,952/- and the Revenue from operations at Rs. 8,56,700/- as on 31.03.2017.

6. After hearing the PCS for the Applicant Company and after perusal of material documents on record, the report of the RoC, Hyderabad and after going through the provisions of Section 252 (3) of the Companies Act, 2013, this Tribunal is of the view that the Company was in existence and it is a going concern and name of Company to be restored in the Register of Companies as maintained by RoC.
7. By exercising the powers conferred on this Tribunal under Section 252 of the Companies Act, 2013, and Rule 87-A of NCLT (Amendment) rules 2017, R/w NCLT Rules, 2016, the Company application bearing CA No.857/252/HDB/2018 is disposed of with the following directions:
 - 1) The Registrar of Companies, the respondent herein, is ordered to restore the original status of the Applicant Company as if the name of the company has not been struck off from the Register of Companies and take all consequential actions like change of company's status from 'strike off' to Active (for e-filing), to restore and activate the DINs if applicable, to intimate the bankers about restoration of the name of the company so as to defreeze its accounts.
 - 2) The Applicant company is directed to file all the statutory document(s) along with prescribed fees/ additional fee/fine as decided by RoC within 30 days from the date on which its name is restored on the Register of companies by the ROC;
 - 3) The Company's representative, who has filed the Company application is directed to personally ensure compliance of this order.
 - 4) 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.857/252/HDB/2018”.

- 5) The applicant is permitted to deliver a certified copy of this order with ROC within thirty days of the receipt of this order.
- 6) 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;
- 7) 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 ROC to take appropriate action(s) in accordance with law, for any other violations /offences, if any, committed by the applicant company prior or during the striking off of the company.


14.9.18
RATAKONDA MURALI
MEMBER (JUDICIAL)