

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP No.: 2269/252/NCLT/MB/MAH/2018
Under section 252 of the Companies Act, 2013
In the matter of

(1) Mrs. Neha Parag Vora,
(2) Mr. Parag Vinodbhai Vora,
(3) Mr. Rupal Sanjay Mandavia,
Directors of Krishna Aviation Private Limited,
having its Regd. Office at 801/802, Peninsula
Heights, C.D Barfiwala Marg, Juhu Lane, Andheri
West, Mumbai – 400058, MH
...Petitioners

v/s

Registrar of Companies, Mumbai
....Respondent

Order delivered on: 31.08.2018

Coram :

Hon'ble Bhaskara Pantula Mohan, Member (J)
Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner :

PCS, Mr. Jignesh Makwana, Authorised Representative for the Company.

For the Respondent :

None Present

Per : Bhaskara Pantula Mohan, Member (J)

ORDER

1. This present Petition has been filed under Section 252 of the Companies Act, 2013 (hereinafter as Act) by the Directors of "Krishna Aviation Private Limited" (Company) praying for restoring its name in the Register maintained by the Registrar of Companies, Mumbai (hereinafter as ROC).
2. The name of the Company was struck off from the Register on account of the reasons that, the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act. The ROC has published a public notice for Striking off and Dissolution of Company i.e. STK - 7 dated 10th July, 2017.

Submissions from the Petitioners:

3. It is submitted that, the Annual Returns and Financial Statements could not be filed for the Financial Years 2011-2012 to 2016-17. And it is further submitted that, the Company now has all the remaining documents ready and prepared and is willing to file the same before the ROC, if so permitted. Further the Company is willing to file any other necessary document which are required by the ROC.

Submissions from the Respondent/RoC:

4. The ROC has forwarded its report stating therein that, the ROC has issued the notice in Form STK — 1 to the Company on the ground that, the Company is not carrying on any

business and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act.

5. It is also submitted that, the Company had failed to file statutory returns for a continuous period of more than two years, the ROC came to conclusion that, the Company has ceased to do its business. And consequentially the name has been struck-off from the Register of ROC.

Findings:

6. That, the facts and circumstances of the case show that the relevant documents which are to be filed, are ready with the Company and the Company is willing to file the same, if so permitted.
7. The Petitioner enclosed the Audited report and Financial statement for the year ended 31.03.2012 to 31.03.2017, with the Petition to show that the Company is in continuous operation.
8. Hence, upon considering the facts and circumstances of this present petition, this Bench is of the view that, it would be just and proper to order restoration of the name of the Company in the Register of Companies maintained by the ROC.
9. In the normal course, this Bench is very considerate in awarding costs. But this is a very special case, where the Company completely neglected to file the Annual Returns, ever since the incorporation of the Company. We, wonder why the ROC had not initiated Criminal Proceedings against them. We are very upset with the manner in which the Director of the Company treated the statutory compliances with utter negligence and carelessness.
10. Therefore, we thought it is most appropriate to send a signal to all the defaulters that the NCLT would not simply allow their plea and restore the name by paying some nominal amounts. We are of the view that a fine/cost of Rs. 3,00,000/- would serve as a deterrence not only for the Petitioners but also for other defaulters.
11. Accordingly, this Petition is allowed. The restoration of the Company's name to the Register of Companies maintained by the ROC Mumbai, is hereby ordered, with a direction that the Company shall comply with the Provisions of the Act. And further it will be subject to payment of costs of Rs. 3,00,000/- (Rs. Three Lakh Only) to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai", within 7 days from the receipt of the duly certified copy of this Order, to this office. Consequentially thereupon the Bank Account/s if freezed shall get defreezed and to be operated by the Company.
12. The Learned ROC shall give effect of this Order only after perusal of the Compliance report of cost imposed. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by ROC.

SD/-

V. Nallasenapathy
Member (T)

SD/-

Bhaskara Pantula Mohan
Member (J)

/SA/

Date : 31.08.2018