

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No.: 652/252/NCLT/MB/MAH/2018

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Sairaj Industries Private Limited, 759,
Nangare, Kokrud Shirala, Kikrud, Maharashtra –
415405.

....Petitioner/Applicant Company

v.

Registrar of Companies, Pune

..... Respondent

Heard on : 23.04.2018

Order delivered on: 26.04.2018

Coram :

Hon'ble M. K. Shrawat, Member (J)

For the Petitioner :

Mr. Milind Kasodekar, Practicing Company Secretary i/b. MRM Associates – Authorised Representative for the Petitioner/Applicant Company.

For the Respondent :

Mr. Neelambuj – Advocate for the RoC.

Per : M. K. Shrawat, Member (J)

ORDER

1. This present petition/application has been filed under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by "M/s. Sairaj Industries Private Limited" (hereinafter as **Petitioner Company**) to restore its name in the Register maintained by the Registrar of Companies, Pune (hereinafter as **RoC**).
2. The Petitioner Company was incorporated with the RoC, Pune on 14.03.2012 having CIN : U27300PN2012PTC142563.
3. The name of the Petitioner 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.

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455 of the Act. Hence, the RoC has published a public notice for Striking off and Dissolution of Company i.e. STK – 7 dated 22.07.2017.

Submissions from the Petitioners:

4. The Learned Representative for the Petitioner Company has submitted that, it is accepted position that the Petitioner Company is not actively engaged in the business since its incorporation.
5. It is further submitted that, on 29.03.2012 the Petitioner Company had applied to MIDC Shirala for an acquisition of land of 60,000 sq. Mtr. For the project of Heavy Engineering & Fabrication workshop.
6. It is further stated that, with reference to said application the MIDC Shirala had initially sanctioned a plot of land admeasuring 40,000 Sq. Mtr. And further a plot admeasuring 26,971 Sq. Mtr. The copies of Sanction Letters are annexed with the Petition/Application. The said Lands were allotted by the MIDC Shrialala for the payment of ₹ 15,72,600/-.
7. It is further stated that, on 05.03.2015 the Petitioner Company had entered into a Lease Agreement with the MIDC Shirala for the period of 60 months. The copy of the said Agreement is annexed with the Petition/Application.
8. It is further stated that, on 04.01.2016 the Petitioner Company has applied to the Shirala MIDC seeking the approval to erect the building on the aforesaid land but till date the permission is awaited. As soon as the sanction is granted the Petitioner Company will start its business.
9. Hence, it is prayed that, the action of Strike-off by the RoC will cause great prejudice to the Petitioner Company and therefore the name of the Petitioner Company be restored in the Register maintained by the RoC.

Submissions from the Respondent/RoC:

10. The RoC has forwarded its report dated 2303.2018 bearing no. ROCP/U/s. 252/2018/352/11258 inter alia stating therein that, the RoC has issued the notice in Form STK – 1 on 11.03.2017 to the Petitioner 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. Further, the RoC has published the name of Company on its official website vide STK – 5 on 18.05.2017. But inspite of two notices there is no representation from the side of the Petitioner Company. Hence, consequentially the RoC has issued public notice i.e. STK

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– 7 dated 22.07.2017 intimating that the name of Company is been struck-off from the Register of RoC.

11. It is also submitted that, the Petitioner Company has not filed the Annual Returns and Balance Sheets with the RoC from the F.Y. 2014-15 till date. And as the Statutory Returns were not filed for the said period, the RoC came to conclusion that, the Petitioner Company has ceased to its business. And consequentially the name has been struck-off from the Register of RoC.
12. However, it is further submitted in the said report that the RoC has no objection to restore the name of the Petitioner Company, if the Petitioner Company is willing to comply with the provisions of the Act, subject to imposition of Cost.

Findings:

13. I have gone through the submissions made by the Learned Representative of the Petitioner Company and also through the pleadings on record.
14. While going through the pleadings it came to notice that, the MIDC Shirala initially vide its Letter dated 09.03.2013 bearing no. MIDC/RO(ROS)/SGCLMS-231/2013/1006 sanctioned a plot of land admeasuring 40,000 sq. meters and further vide it's another letter dated 27.09.2013 bearing no. MIDC/RO(ROS)/SGCLMS-231/2013/6257 sanctioned a plot of land admeasuring 26,971 sq. meters. These sanctions were subject to payment of ₹ 15,57,600/-.
15. Further that, the Petitioner Company had taken an Un-secured loan from its Directors for making the said payment and it is duly reflected in the Balance Sheets regularly drawn from the F.Y. 2014-15 to F. Y. 2016-17.
16. Further that, the Lease Deed is also duly entered between the Shirala MIDC and the Petitioner Company pertaining to the said Land.
17. Further that, the Petitioner Company has duly applied for the permission for erection of construction over the said land to the Shirala MIDC but the permission is still awaited. The Petitioner Company is duly following-up with the concerned authorities for the same.
18. Hence, by going through the Facts and Circumstances involved in this case, in my conscientious view the Petitioner Company deserves the Restoration of its name in the Register of the RoC.

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19. Accordingly, this Petition/Application is allowed. The restoration of the Company's name to the Register of Companies maintained by the RoC Pune, 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 ₹ 1,00,000/- to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Pune", within 7 days from the receipt of the duly certified copy of this Order, to this office. Consequentially thereupon the Bank Account/s if frozen shall get defrozen and to be operated by the Petitioner Company.
20. This Petition bearing No. 652/252/NCLT/MB/2018 is, therefore, disposed of on the terms directed above. The Learned RoC shall give effect to this Order only after perusal of the Compliance report of the costs 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.
21. Ordered accordingly. To be consigned to Records.

Dated : 26.04.2018

Sd/-

**M. K. SHRAWAT
MEMBER (JUDICIAL)**

Avinash