

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

CP No.: 2072/252/NCLT/MB/MAH/2018

Under section 252 of the Companies Act, 2013

In the matter of

Samyak Erectors Private Limited,

Finix House, 413 B Shaniwar Peth Pune-411030

Through its Directors

Mr. Nilesh Satish Kanade

....Petitioner

v.

Registrar of Companies, Pune

..... Respondent

Date of Hearing: 07.09.2018

Order delivered on: 12.09.2018

**Coram :**

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

**For the Petitioner :**

Nupuresh Adhawade, Practising Company Secretary.

**For the Respondent :**

None Present.

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

**ORDER**

1. This present petition/application has been filed on 21.05.2018 under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by the Director of "Samyak Erectors Private Limited" (hereinafter as **Company**) praying for restoration of Company's name in the Register maintained by the Registrar of Companies, Pune (hereinafter as **RoC**).
2. The Company was incorporated with the RoC, Pune on 15.05.1997 having CIN : U45202MH1997PTC108048.
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. 455 of the Act. Consequentially, the RoC has published a public notice for Striking off and Dissolution of Company i.e. STK – 7 dated 11.07.2017.

**Submissions from the Petitioners:**

4. The Learned Representative for the Petitioner submits that the Company is carrying on its business transactions since incorporation. The Company owes to bankers, directors, creditors & Government as well. The liabilities have arisen in the ordinary course of business. The Petitioner could not file the Financial Statements with ROC inadvertently.
5. Further, the Company has not made any application for obtaining the status of Dormant Company under S. 455 of the Act. Further that, the Petitioner Company had never in the past, on its own, moved any application for Strike-off under S. 248 (2) of the Companies Act, 2013.
6. The Learned Representative further submitted that, the Petitioner 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 Petitioner Company is willing to file any other necessary document which are required by the RoC.

**Submissions from the Respondent/RoC:**

7. The RoC has forwarded its report stating therein that the RoC has issued the notice in Form STK – 1 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. But there is no communication from the side of the Petitioner Company. Hence, consequentially the RoC has issued public notice i.e. STK – 7 dated 11.07.2017 intimating that the name of Company is been struck-off from the Register of RoC.
8. It is also submitted that, the Petitioner Company has not filed the Annual Returns and Balance Sheets with the RoC for the F. Y. 2014-2015 and 2015-2016. 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.
9. 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:**

10. That, the facts and circumstances of the case have enlightened that the Company is engaged in the construction business and it has not filed the financial statements with ROC since the year 2015-16 till date. The Petitioner undertakes to file the relevant documents which are to be filed and to get audited the accounts of the Company for the year 2014-15 to 2016-17.

11. The financial statements filed by the company clearly reveal that the Company has generated a revenue of ₹14,00,000/- in the year 2017, therefore it cannot be said to be a non-running concern. Also, there are some legal cases pending in the name of this Company and in view of that the Company deserved to be revived.
12. That, the Company has not deposited heavy cash in its Bank Account during the period of Demonetisation i.e. from 8<sup>th</sup> November, 2016 to 31<sup>st</sup> December, 2016, as noticed from the annexed Affidavit along with this Petition/Application.
13. Hence, upon considering the facts and circumstances of this present petition/application, this Bench is of the view that, it would be just and proper to order restoration of the name of the Petitioner Company in the Register of Companies maintained by the RoC.
14. Accordingly, this Petition/Application is allowed. The restoration of the Petitioner 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 ₹30,000/- (Thirty Thousand 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 Petitioner Company.
15. This Petition bearing No. 2072/252/NCLT/MB/2018 is, therefore, disposed of on the terms directed above. 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.
16. Ordered accordingly. To be consigned to Records.

**Dated : 12.09.2018**

SD/-

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