

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

CP No. 429/BB/2018

U/s 252 of the Companies Act, 2013  
R/w Rule 87A of NCLT Rules, 2016

In the matter of

**M/s Shriyanka Travels Private Limited**

Represented by its  
Shareholder

Mr. Mahalingappa Ramegowda  
No. 622, 1<sup>st</sup> KCB Complex, 1<sup>st</sup> Main,  
Raghavendra Block, Srinagar  
Bengaluru – 560 064

...Petitioner

vs

The Registrar of Companies,  
Karnataka  
2nd Floor, E-Wing, Kendriya Sadan,  
Koramangla,  
Bengaluru – 560 034

... Respondent

**Date of order: 28.08.2018**

Coram: 1. Hon'ble Shri Rajeswara Rao Vitnala, Member (Judicial)  
2. Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

**Parties / Counsels Present:**

For the Petitioner:

Ms. V S Ambika  
PCS & Authorized Representative for the Petitioner

***Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)***

**ORDER**

1. The Present Company Petition bearing C.P. No. 429/BB/2018 is filed by Mr. Mahalingappa Ramegowda, Shareholder of M/s Shriyanka Travels Private Limited, U/s 252(3) of the Companies Act, 2013 read with Rule 87A of NCLT Rules, 2016, by inter-alia seeking for directing the Respondent to restore the name of the

Company in the Register of Companies maintained by the Registrar of Companies, Karnataka as if its name had not been struck off from the rolls of the Register.

2. The averments made in the petition, counter and affidavits inter alia are as follows:
  - A. M/s Shriyanka Travels Private Limited (hereinafter referred to as the “**Company**”) was incorporated on December 19<sup>th</sup>, 2011 bearing **CIN U63040KA2011PTC061728** having its registered office at No. 622, 1st KCB Complex, 1st Main, Raghavendra Block, Srinagar, Bengaluru – 560 064 , within the jurisdiction of this Tribunal.
  - B. The Petitioner has submitted that Company was incorporated to obtain the tender from government and in the initial year the Company was not provided any opportunity. In the year of 2015, the Company has got a tender and started its business, the Company has received the payment in the financial year 2016-17.
  - C. It is also submitted by the Petitioner that the Company is doing its business on a going concern and due to some managerial issue was not able to upload the balance sheet and annual returns for preceding six financial years.
  - D. The Company has filed Affidavits **dated 8<sup>th</sup> June, 2018** by the Shareholder of the Company stating that no abnormal amounts have been deposited in the Company’s Bank Accounts during Demonetization period and further states that the Company has not received any notice from any Income Tax Authorities.
  - E. The Company has filed Affidavits **dated 8<sup>th</sup> June, 2018** by the Shareholder of the Company stating that the Company undertakes to file the overdue returns such as Balance Sheets, Annual Returns and such other documents that are necessary, within 30 days from the date allowed by the Registrar of Companies.
  - F. In order to corroborate their submission that the Company is carrying on business, the Company has attached bank statements for the period 1.04.2016 to 21.11.2017.
  - G. The Registrar of Companies has filed a counter dated 1<sup>st</sup> August, 2018 by inter alia, contending as follows:
    - i. On verification of the MCA 21 portal in the month of March 2017 when action under Section 248(1) of the Companies Act, 2013 was initiated against the eligible companies, it was noticed that the Company has not filed either the Balance sheet or the Annual Returns from the year of incorporation. Therefore, the Respondent issued notice in Form STK-1

dated 17.03.2017 and 31.03.2017 to the Company and its directors respectively, by inter-alia, stating that it had not been carrying on any business or operation for a period of two immediately preceding financial years and has not made any petition within such period for obtaining the status of a dormant company under Section 455 of the Companies Act, 2013. Though the company was given 30 days' time, they did not submit any response to the impugned notice.

- ii. No cause was shown either to the physical notices or to the website, Gazette and newspaper notices either by the Company or its Directors. Also since no Balance Sheet or Annual Return was filed by the Company till 21.06.2017, the impugned action was taken in accordance with law.
  - iii. However, the Registrar of Companies submit that there is no prosecution, inspection, technical scrutiny and complaint against the Company and the petition may be considered subject to undertaking given by the company to file all pending returns within 30 days in the MCA 21 Portal from the date of receipt of the order of the Tribunal and subject to the payment of costs.
3. Heard Ms. Ambika, PCS for the Petitioner and also perused all the materials placed on record. The PCS relying on the material placed on record, urged the Tribunal to allow the petition in the interest of justice and equity.
  4. The Petitioner further states that the Company has annexed to the Petition, financial statements and annual returns of the Petitioner from 31.03.2013 to 31.3.2017.
  5. We have considered the pleadings of the parties along with the materials available on record. As stated by the PCS, the Company has been carrying on business and earned revenue of Rs. 3,73,948/- and is having current assets as of 31.03.2017. However, it could not comply with the Statutory Filings of the company due to managerial issues. Therefore, this Tribunal has to take a lenient view to permit the Company to carry on the business subject to filing of annual returns and payment of costs in order to allow the Company to function.

6. By exercising the powers conferred on this Tribunal under Section 252 of the Companies Act, 2013 read with Rule 87A of NCLT Rules, 2016 and following the ratio laid down by this Tribunal in C.P. No. 209/BB/2018 dated 18<sup>th</sup> April, 2018, the Company Petition bearing **C.P. No. 429/BB/2018** is disposed of with the following directions:
- a. The Registrar of Companies, Karnataka, the respondent herein, is ordered to restore the name of the Company in the Register of Companies maintained by the Registrar of Companies, Karnataka as if its name had not been struck off from the rolls of the Register;
  - b. The Company is directed to file all the statutory document(s) along with prescribed fees/ additional fee/fine as decided by Registrar of Companies within 30 days from the date on which its name is restored on the Register of companies by the Registrar of Companies;
  - c. The Company's representative, who has filed the Company Petition, is directed to personally ensure compliance of this order;
  - d. The restoration of the Company's name is also subject to the payment of cost of **Rs. 30,000/- (Rupees Thirty Thousand only)** to the account of Central Government in favour of the Pay & Accounts Officer, Ministry of Corporate Affairs, Southern Region, Chennai.
  - e. The Petitioner is permitted to deliver a certified copy of this order with Registrar of Companies within thirty days of the receipt of this order;
  - f. On such delivery and after duly complying with above directions, the Registrar of Companies, Bengaluru is directed to, on his office name and seal, publish the order in the official Gazette;
  - g. 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 Registrar of Companies to take appropriate action(s) in accordance with law, for any other violations /offences, if any, committed by the Company prior or during the striking off of the Company.

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

  
(RAJESWARA RAO VITTANALA)  
MEMBER, JUDICIAL

vy