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**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 30.08.2018.

PRESENT: 1.Hon'ble member (J) **Shri Rajeswara Rao vittanala,**  
2.Hon'ble member (T) **Dr. Ashok Kumar Mishra**

CP/CA No	Purpose	Section	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP No.331/BB/2018	For pronouncement of order	Sec 252	M/s RSRSR Techno Solutions Pvt Ltd	Biswajit Ghost Advocate	ROC	

SL. NO.      NAME (IN CAPITAL) & PHONE NUMBER      REPRESENTATION TO WHOM      SIGNATURE

PETITIONER/s :  
*PRAMOD SM*  
*984565772*

*Petitioner*      *[Signature]*

RESPONDENT/s :

**ORDER**

Heard Sshri S.M Pramod, learned PCS for Petitioner;  
C.P is disposed of vide separate order.

*[Signature]*  
**MEMBER (T)**

*[Signature]*  
**MEMBER (J)**

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

C.P. No. 331/BB/2018

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

In the matter of

**M/s RSRSR Techno Solutions Private Limited**

Represented by its Member

**Mr. Sapthagiri Gowda**

J-108, Old No. 70/1/17,  
10<sup>th</sup> Cross, Lakshmi Narayan Puram,  
Sriram Puram, Bangalore- 560021  
Karnataka, India

.... Petitioner

**vs**

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

...Respondent

**Order Delivered on: 30<sup>th</sup> August 2018**

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

**Parties / Counsels Present:**

For the Petitioner:

Shri. Biswajeet Ghosh &  
Shri Pramod S.M.,  
Practising Company Secretaries  
M/s BMP & Co. LLP

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

**ORDER**

1. The Present Company Petition bearing C.P. No. 331/BB/2018 is filed by Mr. Sapthagiri Gowda, Member of M/s RSRSR Techno Solutions Private Limited ("Petitioner" herein), 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 Company.

2. The averments made in the petition, counter and affidavits inter alia are as follows:
- A. M/s. RSRSR Techno Solutions Private Limited (hereinafter referred to as the “Company”) was incorporated on 14.05.2009 bearing CIN U72211KA2009PTC049848 having its registered office, at J-108, Old No. 70/1/7, 10<sup>th</sup> Cross, Lakshmi Narayan Puram, Sriram Puram, Bangalore-560021, within the jurisdiction of this Tribunal.
- B. The Petitioner has submitted that the aforesaid lapse was without any mala fide motive and on account of lack of proper professional and legal advice. It is also submitted by the Petitioner that the Company is in the business of providing services in the field of information technology, but it was unable to start its business due to economic constraints and challenging circumstances. It is further submitted that the Company has entered into agreements with vendors to provide IT related services. The Directors are positive regarding the growth of the business of the Company in the future.
- C. It is further submitted that the remuneration from the Company is the main source of livelihood of the Directors of the Company. It is also averred that the Directors have provided personal guarantees to the Bankers and other creditors for the loans availed other companies and that the right to livelihood of the Directors guaranteed under Article 19(1)(g) of the Constitution has been affected due to striking off of the name of the Company. It is submitted that the Directors, employees and other stakeholders will be seriously affected in case the name of the Company is not restored.
- D. The Company had filed the Affidavit dated 29.05.2018 of the Director of the Company stating that no abnormal amounts has 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 vide the same Affidavit dated 29.05.2018 of the Director 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 of order from the Hon'ble Bench.

F. The Registrar of Companies has filed a counter dated 07.08.2018 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 **2010-11 onwards**. Therefore, the respondent issued notice in Form STK-1 dated 18.03.2017 to the company 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 application 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. Therefore, a consolidated notice in STK-5 in English and Hindi was released as per Rule 7 of the Companies (Removal of name of companies from the Register of Companies) Rules, 2016, in the official website of the Ministry of Corporate Affairs on 17.07.2017 and in the official Gazette on 29.07.2017.
  - ii. It is stated that appropriate notice was given to the company regarding the impugned notice, viz., STK-1, STK-5 and STK-5A. However, the company has failed to avail the opportunity given to the company. Therefore, the impugned action was taken in accordance with law.
  - iii. However, the Registrar of Companies submit that there is no enquiry, investigation and complaints against the company and the application 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. The Petitioner has filed an affidavit dated 03.08.2018 stating that the Company has entered into an agreement dated 02.11.2017 with Vision Advance Speciality Carbons Private Limited for providing information technology services to them. A

copy of the said agreement has been filed with the Affidavit to show that the Company is desirous of commencing its business immediately upon restoration of its name.

4. Heard, Shri Pramod S.M., learned Practising Company Secretary appearing for the petitioner and also perused all the materials placed on record. Based on the submissions made, the learned Practising Company Secretary appearing for the petitioner urged the Tribunal to allow the petition in the interest of justice and equity.
5. The Petitioner further states that the Company has annexed to the Petition, financial statements and annual returns of the Petitioner from 31.03.2010 to 31.3.2017. The Petitioner has cash and bank balance of Rs.25,141/- in 2016-17, in 2015-16 the cash and bank balance was of Rs.27,307/-, and Rs.30,727/- in the year 2014-15.
6. We have considered the pleadings of the parties along with the materials available on record. The Petitioner categorically admitted in para 4(b) of the petition that due to economic constraints and challenging circumstances, the company has not been able to start its business. It is also seen that the Company does not have any substantial assets and liabilities and has no revenue. On perusal of the audited financials of the company, the company has not carried on any business since incorporation. Further on perusal of the report of the Registrar of Companies, Karnataka it is clear that the company is not carrying on any business. There are no 'just' grounds to order for restoration of the name of the Petitioner Company. No materials from the side of the Petitioner Company to establish that, it was a going concern at the time when its name was struck off. Therefore we are of the opinion that, the name of the Company cannot be restored. The Petition therefore deserves to be dismissed. The Petition is dismissed. No order as to costs.

  
**ASHOK KUMAR MISHRA**  
**MEMBER (TECHNICAL)**

  
**RAJESWARA RAO VITTANALA**  
**MEMBER (JUDICIAL)**