

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

CP No.: 344/252/NCLT/MB/MAH/2017

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Maxcare Kuries India Private
Limited, 1/352, 3rd Floor, B-Wing,
Jai Ganesh Vision, Beside Fame
Ganesh Multiplex, Akurdi, Pune
411035, Maharashtra, India.

....Petitioner Company

v.

Registrar of Companies, Pune

..... Respondent

Heard on : 29.09.2017

Order delivered on: 12.10.2017

Coram :

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

Hon'ble Bhaskara Pantula Mohan, Member (J)

For the Petitioner :

Mr. Pramod Kumar Ladda, Practicing Company Secretary – Authorised
Representative for the Petitioners.

For the Repondent :

Ms. Purnima Awasthi – Advocate for the Respondets.

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

ORDER

1. This present petition has been filed under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by "M/s. Maxcare Kuries India Private Limited" (hereinafter as **Petitioner Company**) praying for restoring 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 24th December, 2009 originally named as "Maxcare Chit Fund Private Limited" having CIN : U65992PN2009PTC135218 and thereafter subsequently the name has been changed as "Maxcare Kuries India Private Limited" w.e.f. 21st May, 2013 through passing a Special resolution to that effect.

3. The Authorised Share Capital of the Petitioner Company is ₹ 15,00,000/- comprising of 1,50,000 equity shares of ₹ 10/- each.
4. The issued, Subscribed and Paid-up share capital of the Petitioner Company is ₹ 10,00,000/- comprising of 1,00,000 equity shares of ₹ 10/- each.
5. The Petitioner Company is involved in business of Chit Fund or Kuries in accordance with the provisions of the Chit Funds Act, 1982.
6. 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, as noticed in the Public Notice from the RoC i.e. STK – 5 dated 7th April, 2017.

Submissions from the Petitioners:

7. The Learned Representative for the Petitioners submits that, the Petitioner Company is a running Company and has assets as well as corresponding liabilities including the statutory dues. 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.
8. It is further submitted that, the AGMs of the Company were held on due dates but however the Petitioner Company being a small company, no professional was appointed to look into the matters relating to Company Law Compliances and because of the same the Annual Filing with RoC remained pending.
9. It is submitted that, the Petitioner Company did not file the Annual Returns after the Financial Year ended on 31st March, 2013 and it continued till date.
10. The Learned Representative for the Petitioners 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:

11. The Learned Advocate for the RoC is present and submitted that, the RoC has issued the public notice in Form STK – 5 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.
12. The Petitioner Company has not filed the Annual Returns with the RoC from the F. Y. 2012-2013 till date. And as the Annual Returns were not filed for the said period, the RoC came to conclusion that, the Petitioner Company has ceased to its business.
13. However, it is further submitted that, the RoC have no objection to restore the name of the Petitioner Company, as the Petitioner Company is willing to comply with the provisions of the Act, subject to imposition of Cost.

Findings:

14. That, the facts and circumstances of the case have enlightened 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. Further that, the accounts of the Petitioner Company were audited and the audited accounts have been approved within prescribed time. Further that, it is not a case that, the Company is not actively engage in the business or not stopped business activities; as apprehended by the Learned RoC, but the Company has substantial turnover and business activities.
15. 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 Petitioner Company in the Register of Companies maintained by the RoC.
16. Accordingly, this Petition is allowed. The restoration of the Petitioner 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 ₹ 10,000/- to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai", within 30 days from the receipt of the duly certified copy of this Order, to this office.

17. This Petition bearing No. 344/252/NCLT/MB/2017 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.

18. Ordered accordingly.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

Dated : 12.10.2017