

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

CP No.: 316/252/NCLT/MB/MAH/2017

Under section 441 of the Companies Act, 2013

In the matter of

M/s. Nira Valley Grapes Wines Private
Limited

....Petitioner (Company)

v.

Registrar of Companies, Pune
..... Respondent

Heard on : 13.10.2017
Order delivered on: 16.10.2017

Coram :

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

For the Petitioner :

M. B. Kasodekar, Practising Company Secretary


For the Repondent :

Mangesh R. Jadhav, Assistant RoC, Mumbai.

Per: Bhaskara Pantula Mohan, Member (J)

ORDER

1. This present petition has been filed under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by "Nira Valley Grapes Wines 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. This petition is filed before NCLT, Mumbai Bench on 27th July, 2017 under provisions of S. 252 of the Act. And thereafter listed for hearing on 11th September, 2017 and then on 13th October, 2017.



3. The Petitioner Company was incorporated with the RoC, Pune on 13th January, 2006 as a Private Limited Company in the city of Baramati, Maharashtra having CIN : U15520PN2006PTC021848.
4. The Authorised Share Capital of the Petitioner Company is ₹ 4,50,00,000/- comprising of 45,00,000 equity shares of ₹ 10/- each.
5. The issued, Subscribed and Paid-up share capital of the Petitioner Company is ₹ 3,50,21,000/- comprising of 35,02,100 equity shares of ₹ 10/- each.
6. The Petitioner Company is involved in the business of manufacturing, brewing, distilling, preserving, processing, refining, aerating, bottling, importing, exporting, trading & distributing of Wine and Wine manufacturing machinery, equipment's, tools related to wine manufacturing and bottling of wine.
7. The name of the Petitioner Company was struck off from the Register on account of the reasons that, the Company has not filed its Financial statement and annual return for the financial year 2014-15, as noticed in the Notice from the RoC i.e. STK – 5 dated 7th April, 2017.

Facts of the Case:

8. The facts of the case as stated by the Learned Counsel for the Petitioners are as follows:

“...i. The Company was unable to complete its balance sheet filing due to the financial problems and in the Month of April, 2017, the Company came to know that, the Registrar of Companies, Pune, Maharashtra had issued a Public notice No. ROCP/STK/7/20 dated 7th April, 2017 regarding striking off of the Companies under section 248 (1) of the Companies act, 2013 and consequential removal of name of company from its register of companies.

ii. On 19th April, 2017 the Company submitted a letter (dated 17th April, 2017) to the Registrar of Companies, Pune, Maharashtra reiterating, that, the company is carrying on its business till date and have already filed its Annual return for the said period and would complete its Balance Sheet filing for the Financial year ending 31st March, 2015 at the earliest, and accordingly, requested the said office to withdraw the proposal to strike off the name of the company.

iv. On 8th May, 2017 the Company submitted a letter (dated 5th May, 2017) to the Registrar of Companies, Pune, Maharashtra stating, that, the company has completed its Annual filing for the



financial year 2014-15 and requested the said office to withdraw the proposal to strike off the name of the company.

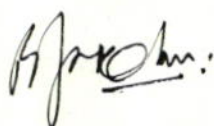
*v. On 30th June, 2017 the Master Data of the Company showed Status of company as **Strike off**...."*

Submissions from the Petitioners:

9. The Learned Advocate 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.
10. The Petitioner Company has its Audited Balance Sheet as on 31st March, 2015. As on such date, the Petitioner Company has Reserve and Surplus of ₹ -3,61,59,400/-.
11. The Company has also filed its Annual return for the Financial Year 2014-15. Copy of acknowledgement has also been attached to the Petition.
12. It is further submitted that, Annual Returns for the F.Y. 2014-2015 was uploaded with RoC along with form MGT – 7 on payment of requisite fees on 31.03.2017. The copies of challan and form are annexed to the Petition. Further, although it was uploaded but remained unattended and the name of the Petitioner Company was not restored in the Register of RoC.
13. The Learned Advocate 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. Further the Petitioner Company is willing to file any other necessary document which are required by the RoC.

Submissions from the Respondent/RoC:

14. The Learned Advocate for the RoC is present and submitted that, the RoC has issued the notice in Form STK – 5 to the Petitioner Company on the ground that Company has not filed its Financial statement and annual return for the financial year 2014-15.
15. Thus the RoC came to the conclusion that, as the Petitioner Company has not filed its Financial statement and annual return for the financial year 2014-15 and therefore contravened the provisions of S. 92 and S. 137 of the Act. Hence, the name was struck off from the Register.



16. The RoC has no malafide intention to remove the name of the Petitioner Company from the Register of the RoC. It is the Petitioner Company that committed the default.
17. However, it is further submitted that, the RoC has 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

18. 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.
19. Accordingly, this Petition is allowed. The restoration of the Petitioner Company's name to the Register of Companies Pune, is hereby ordered, with a direction that the Petitioner Company shall comply with the Provisions of the Act subject to the 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.
20. This Petition bearing No. 316/252/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. After restoration of the Company, within 15 days, the Company shall file all the required documents with the RoC.
21. Ordered accordingly.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

Dated : 16.10.2017