

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

CP No.: 464/252/NCLT/MB/MAH/2017

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Cosme Bio-Tech Private Limited, 5<sup>th</sup>  
Floor, Dempo Towers, EDC Patta Plaza,  
Panaji, Goa - 403001.

....Petitioner Company

v.

Registrar of Companies, Goa, Daman &  
Diu

..... Respondent

Heard on : 16.10.2017

Order delivered on: 17.10.2017

**Coram :**

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

Hon'ble Bhaskara Pantula Mohan, Member (J)

**For the Petitioner :**

Adv. Chirag Bhavsar i/b. MDP Partners – Advocates for the Petitioner

**For the Respondent :**

Mr. Neelambuj – Advocate for the Respondents.

*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. Cosme Bio-Tech Private Limited” (hereinafter as **Petitioner Company**) praying for restoring its name in the Register maintained by the Registrar of Companies, Goa, Daman and Diu (hereinafter as **RoC**).
2. The Petitioner Company was incorporated with the RoC on 18<sup>th</sup> September, 1997 having CIN : U31200GA1997PTC002440.
3. The Authorised Share Capital of the Petitioner Company is ₹ 3,70,00,000/- comprising of 46,000 equity shares of ₹ 100/- each AND 3,24,000 6% 3 years

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Non-Convertible Non-Cumulative Redeemable Preference Shares of ₹ 100/- each.

4. The Issued, Subscribed and Paid-up share capital of the Petitioner Company is ₹ 2,48,00,000/- comprising of 46,000 equity shares of ₹ 100/- each and 2,02,000 6% 3 years Non-Convertible Non-Cumulative Redeemable Preference Shares of ₹ 100/- each.
5. The Petitioner Company is presently engaged in the business of manufacturing and marketing V.A.M. Bio-Fertilizers.
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 Notice from the RoC i.e. STK – 1 dated 4<sup>th</sup> March, 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 submitted that, the Petitioner Company till 31<sup>st</sup> March, 2014 has regularly filed its Return/Forms with the RoC, however due to unavoidable circumstances, the statements for the F.Y. 2014-2015 and F.Y. 2015-2016 could not be prepared in stipulated time and could not filed with the RoC.
9. It is further submitted that, the Company has prepared its Financial Statements as at 31<sup>st</sup> March, 2015 and are duly approved and adopted by the shareholders of the Petitioner Company in the AGM held on 5<sup>th</sup> January, 2017 and was in process of filing the same with the RoC but due to change in status to 'Strike off' the Petitioner Company is unable to upload the required e-forms.

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10. It is also submitted that, the Petitioner Company has also prepared its Financial Statements as at 31<sup>st</sup> March, 2016.
11. 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:**

12. The Learned Advocate for the RoC is present and submitted that, the RoC has issued the public 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.
13. The Petitioner Company has not filed the Annual Returns with the RoC for the F. Y. 2014-2015 and F. Y. 2015-2016. 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.
14. 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:**

15. 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. 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.
16. 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.

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17. Accordingly, this Petition is allowed. The restoration of the Petitioner Company's name to the Register of Companies maintained by the RoC Goa, Daman and Diu, 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 ₹ 15,000/- 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.

18. This Petition bearing No. 464/252/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.

19. Ordered accordingly.

Sd/-

**BHASKARA PANTULA MOHAN**  
**MEMBER (JUDICIAL)**

Sd/-

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

**Dated : 17.10.2017**