

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

CP No.: 634/252/NCLT/MB/MAH/2017

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Gemini Biotech Pvt. Ltd.,
Flat No. 8, Wing - D, Prajakta Apartment,
Near Vitthal Mandir, Karvenagar, Pune -
411052

.....Petitioner

v.

Registrar of Companies, Pune

..... Respondent

Heard on : 29.11.2017

Order delivered on: 10.12.2017

Coram :

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

For the Petitioner :

Mr. Milind Kolhatkar, Director of Gemini Biotech Pvt. Ltd.

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 "M/s. Gemini Biotech Pvt. Ltd." (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 30th October, 2017 under provisions of S. 252 of the Act. And thereafter listed hearing on 14th November, 2017 and then on 29th November, 2017.
3. The Petitioner Company was incorporated as M/s. Gemini Biotech Pvt. Ltd. with the RoC, Pune on 6th May, 2009 under Companies Act, 1956 as a Private Company in the city Pune, Maharashtra having CIN: U01122PN2009PTC133898.
4. The Petitioner Company is involved in activities such as Growing of crops; market gardening, horticulture.
5. The name of the Petitioner Company was struck off from the Register on account of the reasons that, the Company had failed to file its Statutory returns (i.e. Financial Statements & Balance Sheet/Annual Returns) in respect of financial

Bhaskara Pantula Mohan

Years ending 31st March, 2015 and 31st March, 2016, as, noticed in the Notice from the RoC i.e. STK – 1 dated 3rd March, 2017.

Submissions from the Petitioners:

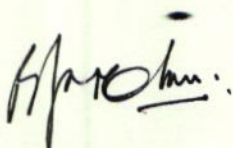
6. The Ld. Representative of the Petitioner Company submits that, the Company is running Company and has assets as well as corresponding liabilities including statutory dues. Further, the Company has not made any application for obtaining the status of Dormant Company under S. 455 of the Act. Further that, the Petitioner Company had never in the past, on its own, moved any application for Strike-off under S. 248 of the Companies Act, 2013.
7. The Company has also filed its Statutory returns in I.T. Department for the Financial Year 2015-16. Copy of acknowledgement has also been placed on record.

Submissions from the Respondent/RoC:

8. The RoC in its report submitted that, the RoC has issued the notice in Form STK – 1 to the Petitioner Company on the ground that the Company is not carrying on any business or operation for a period of two immediately preceding financial years.
9. Thus the RoC came to conclusion that, as the Petitioner Company had failed to file statutory returns (i.e. Annual return and Balance sheet/financial statement) for the year ended 31.3.2015 and 31.3.2016 which it was required to file under the provisions of S. 92 and S. 137 of the Act. Hence, the name was struck off from the Register.
10. The RoC has taken decision as prescribed under law to remove the name of the Petitioner Company from the Register of the RoC. It is the Petitioner Company remained in the default.
11. 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

12. 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.
13. 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 Petitioner Company shall comply with the Provisions of the Act. And further it will be subject to payment of costs of Rs. 5,000/- (Rupees Five Thousand Only), to be paid by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai", within 7 days from the receipt of the duly certified copy of this Order, to this office. Consequentially thereupon the Bank Account/s if freezed shall get defreezed and to be operated by the Petitioner Company.



14. This Petition bearing No. 634/252/NCLT/MB/MAH/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.

15. Ordered accordingly.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (J)

Sd/-

M. K. SHRAWAT
MEMBER (J)

Dated : 10th December, 2017

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