

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

CP No.: 466/252(1)/NCLT/MB/MAH/2017

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Cotex Chem Pvt. Ltd.,
Plot No. F-26, MIDC Phase - II, Dombivili
(East), Thane - 421204

..... Petitioner

v.

Registrar of Companies, Mumbai

..... Respondent

Heard on : 22.11.2017

Order delivered on: 08.12.2017

Coram :

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

Hon'ble Bhaskara Pantula Mohan, Member (J)

For the Petitioner :

Akanksha Mota, Practising Company Secretary.

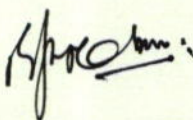
For the Respondent :

Mr. Neelambuj, Company Prosecutor, 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 "M/s Cotex Chem Pvt. Ltd." (hereinafter as **Petitioner Company**) praying for restoring its name in the Register maintained by the Registrar of Companies, Mumbai (hereinafter as **RoC**).
2. This petition is filed before NCLT, Mumbai Bench on 28th September, 2017 under provisions of S. 252 of the Act. And thereafter listed for hearing on 9th October, 2017, 15th November, 2017 and then finally on 22nd November, 2017.
3. The Petitioner Company was incorporated as M/s Cotex Chem Pvt. Ltd. with the RoC, Mumbai on 28th June, 1996 as a Private Limited Company in Dombivili (East), Maharashtra having CIN : U24110MH1996PTC100624.
4. The Petitioner Company is involved in Business Activity such as to manufacture, export, import, trade, sale and purchase in all kinds of synthetic, natural, mineral chemicals, textile auxiliaries and chemical, bye-products, dyes, intermediates, colours, rubber chemicals, all inorganic and organic chemicals, dyes, pigments.



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 Annual returns and Balance Sheets for the year ended 31st March, 2015 and 31st March, 2016, as noticed in the Notice from the RoC i.e. STK – 1 dated 27th March, 2017, STK – 5 dated 28th April, 2017 and STK – 7 dated 10th July, 2017.

Submissions from the Petitioners:


6. The 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 filed its Statutory returns in I.T. Department for the Financial Year 2016-17. Copy of acknowledgement has also been placed on record.

Submissions from the Respondent/RoC:

8. The RoC in its reply 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 (i.e. 2014-15 and 2015-2016).
9. Thus the RoC came to conclusion that, as the Petitioner Company has not filed its annual returns and balance sheet for the financial years 2014-15 and 2015-2016, therefore contravened 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 Mumbai, 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. 466/252(1)/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.

15. Ordered accordingly.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (J)

Sd/-

M. K. SHRAWAT
MEMBER (J)

Dated : 8th December, 2017

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