

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

CP No.685/2017

Under section 252(1) of CA 2013

In the matter of

Clive Anthony Wheeldon
Shareholder & Director of
Cool Logistics India Pvt. Ltd

... Petitioner No.1

Parveen Hayre Wheeldon

Director of
Cool Logistics India Pvt. Ltd

... Petitioner No.2

Cool Logistics India Pvt. Ltd.

... Petitioner No.3

v/s.

The Registrar of Companies,
PMT Commercial Building,
3rd floor, Deccan Gymkhana,
Pune - 411026

...
Respondent.

Order delivered on 19.12.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)

Hon'ble Mr. V. Nallasenapathy, Member (Technical)

For the Petitioner: Ms. Anuja A. Date, Adv.

For the Respondent: Mr. Neelambuj, CP - Registrar of Companies, Mumbai.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. The Petitioners filed this Company Petition seeking relief against the respondent to restore the name of the company in the Register of Companies maintained by the Respondent.

2. The Petitioners submit that the Respondent struck off the name of P3 company from the Register of Companies maintained by it, stating that the company has not been carrying on business or operations for a period of two

immediately preceding financial years and has not made any application within the stipulated period for obtaining the status of Dormant Company, by a Public Notice in Form No.STK-7 dated 11.7.2017. The Petitioners further submit that the Respondent without giving notice in Form STK-1, published a public notice dated 7.4.2017 along with the list of Companies in Form No.STK-5, but the response for the oral enquiry with the Respondent revealed that the notice in Form STK-1 was issued by the Respondent, but the company never received such notice. The Petition reveals that the Annual Accounts and Annual Returns for the Financial Years 2014-15, 2015-16 and 2016-17 have not been filed by the Company with the Respondent.

3. The Petitioners further submits that the company is active and a going concern carries on business since incorporation till date and also disclosed substantial amount as turnover for the years ended on 31.3.2016 and 31.3.2017. They say that the company has filed Income-tax Returns, Service Tax Returns, MVAT returns and GST returns with appropriate authorities on regular bases. The company has also enclosed the Bank Account statement of ICICI Bank, HDFC Bank and HSBC Bank to show that the company is a going concern.

4. On hearing the submissions of the Professional appearing on behalf of Petitioner, the Registrar of Companies, Mumbai on behalf of ROC, Pune, report of Registrar of Companies, Pune and on perusing the documents filed, it is clear that the Company is in operation, however, due to non-filing of the financials the name was struck off from the Register of companies, this Bench is of the view that the name of the company is to be restored to the Register of Companies.

5. Accordingly, the Respondent is directed to restore the name of the company forthwith in the Register of Companies maintained by him subject to the condition that the Petitioner Company will deposit a sum of ₹1,00,000.00 as cost immediately payable to Registrar of Companies, Pune and will file the pending financial statements and annual returns with the Respondent within a period of 30 days from the date of receipt of this order, failing which, this order will stand vacated automatically.

6. The Petition is disposed of in the above terms.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. Prakash Kumar
Member (Judicial)