

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 112/2016**

DATED: WEDNESDAY THE 15TH DAY OF FEBRUARY 2017

***PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

**IN THE MATTER OF SECTION 2(41) OF THE COMPANIES ACT, 2013
AND**

**IN THE MATTER OF
M/S GANGAGEN BIOTECHNOLOGIES PRIVATE LIMITED**

T.P.NO. 112/2016

1. M/S Gangagen Biotechnologies Private Limited
No. 12, 5th Cross, Raghavendra Layout,
Opp. MEI Ltd., Tumkur Road, Yeshwanthapur
Bangalore-560022.

PETITIONER

PARTIES PRESENT:-

Mr. K.Venkatramani, Advocate in Practice, No.4
& 5, 1st Floor, Yadhugiri Yathiraja Mutt Building,
No.200, Sampige Road, Malleshwaram,
Bangalore-560003 and Authorised
representative for the Petitioner.

Heard on 19/09/2016, 06/10/2016, 27/10/2016, 01/11/2016, 21/11/2016,
28/11/2016, 09/12/2016, 04/01/2017, 12/01/2017 and 07/02/2017.

ORDER

This petition is filed by the Petitioner under section 2(41) of the Companies Act, 2013 with a prayer to permit the company which is a subsidiary of body corporate registered outside India to follow the financial year 1st January to 31st December as its financial year for the purpose of consolidation of its accounts with its Holding Company in line with global practice.

The Petitioner Company is a Private Limited Company, incorporated under the Companies Act, 1956 on 20th September 2000 under the name and style of "Gangagen Biotechnologies Private Limited" vide Corporate Identity No. U85110KA2000PTC027824. The Registered Office of the company is situated at No. 12, 5th Cross, Raghavendra Layout, Opp. MEI Ltd., Tumkur Road, Yeshwanthpur, Bangalore-560022.




The main objects of the Company is to perform research in biological, biochemical, chemical and pharmaceutical sciences for the invention and development of therapeutic agents for the treatment of human, animal and/or plant disease; to discover, genetically engineer and/or design the genomes of viruses; to engage in the design, co-ordination and/or conduct of Clinical Trials on human volunteers; to engage in the activity of collecting by isolation or by acquisition from existing collections, microbial cultures and to isolate chemical entities etc.,

The averments in the Company petition are briefly described hereunder:-

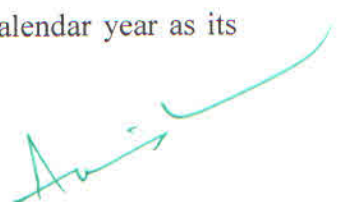
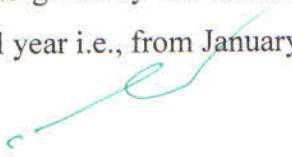
The Petitioner Company is a subsidiary of M/s GangaGen Inc., a body corporate incorporated under the laws of USA. The financial year of Holding Company i.e., M/s GangaGen Inc., is from January to December.

The Petitioner Company is currently following the calendar year as financial year in line with its Holding Company follows the calendar year from January to December as its financial year for easier consolidation of accounts.

The copy of the latest audited financials of the Holding Company is enclosed with the Petition.

As per provision of section 2(41) of the Companies Act, 2013, every company is required to have its financial year from April to March and any company which is the subsidiary company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India has to make an application to the Tribunal for obtaining the prior approval. As the Petitioner Company being the Subsidiary Company of M/s GangaGen Inc., a body corporate incorporated under the laws of USA which follow the calendar year i.e., from 1st January to 31st December as its financial year pattern. Hence this petition.

We have heard the Counsel for the Petitioner Company. He filed the consolidated Annual Accounts as at 31st December 2014. He has also filed certified true copy of the Resolution passed by the Board of Directors of the Petitioner Company dated 24th June 2015. He has also filed Board Resolution dated 6th July 2015 of the Holding Company. He has also filed true copy of the No objection certificate given by the Holding Company for following the calendar year as its financial year i.e., from January to December every year.



We have also seen the Memorandum of Association, copy of the Financial Statement of the Holding Company and also the Board Resolution of the Petitioner Company. We have seen the financial statement and No objection certificate given by the Holding Company.

Section 2(41) of the Companies Act, 2013 which reads as follows:-

“financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up;

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year.”

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;”

We have perused the report of the Registrar of Companies, Karnataka, Bangalore vide letter No. ROCB/MMM/SEC 2(41)/GANGAGEN/2016 dated 10th February 2016, who reported that request of the petitioner company for following the financial year may be considered and made an observation that the case may be decided on merits.

After hearing the Counsel for the Petitioner Company and after going through the documents filed and the report of the Registrar of Companies, Karnataka, Bangalore, we are of the opinion that, the Petitioner Company can be permitted to follow its financial year from 1st January to 31st December.

In the result petition is allowed, Petitioner Company “**GANGAGEN BIOTECHNOLOGIES PRIVATE LIMITED**” is permitted to follow its financial year as 1st January to 31st December to match with the financial year adopted by the Holding Company.

(RATAKONDA MURALI)
MEMBER, JUDICIAL

DATED THIS THE 15th

(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DAY OF FEBRUARY 2017.