

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

CP No.777/2017

Under section 252(1) of CA 2013

In the matter of AARINI BUILDERS PVT.
LTD.

Xrbia Developers Ltd.
Shareholder of
AARINI BUILDERS PVT. LTD.
Represented by Mr. Manojkumar
Kamble

Commerce Avenue, 4th floor,
Office No.21/22 above PNG Jewellers,
Paud Road, Kothrud,
Pune - 411038

... Petitioner

v/s.

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

... Respondent

Order delivered on 31.01.2018

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

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

For the Petitioner: Mr. C.S. Kuldeep Ruchandani, Company Secretary in practice
& Partner of KPRC & Associates.

For the Respondent: None present.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This company petition is filed by the Petitioner, seeking relief against the respondent to restore the name of the company in the Register of Companies maintained by the Registrar of Companies, Pune.

2. The grievance of the Petitioner is that the company was struck off under section 248 of the Companies Act, 2013 due to non-filing of Financial Statements & Annual Return for the Financial Year 2015-16 wherein the Respondent side filed a detailed report explaining the reasons for striking off of the company under section 248 of the Companies Act, 2013. It is an admitted fact that the company has not filed its Annual Returns and Financial Statements for the Financial Year 2015-16.

3. The Petitioner says that the company is a going concern and is engaged in the business of Builders, Promoters, developers, engineers and civil contractors of commercial, industrial and residential building, flats, apartments, bridges, dam, canals, roads, etc. The Petitioner submits that Company has many employees on its payroll and if the relief sought for is not granted, there will also be an adverse impact on the company. The Petitioner submits that the default is caused due to inevitable circumstances, inadvertently and without prejudice to the interest of the members and creditors of the company. Company has not filed its Annual Returns and Financials for the Financial Year 2015-16. The Petitioner has enclosed the Audited accounts for the financial years ended 2014-15, 2015-16 and 2016-17, Acknowledgement of Income-tax Returns for the Assessment Years 2015-16, 2016-17 & 2017-18, Bank Statement of Oriental Bank of Commerce for the period 1.4.2017 to 02.12.2017, copies of latest TDS Return and GST Return filed to show that the company is validly existing, operational and actively engaged in day to day business operations since its Incorporation.

4. On hearing the submissions of the Petitioner and on perusing the Report of the Registrar of Companies, Pune and the documents filed, it is clear that the Company is carrying on business operation, however, due to non-filing of the financials the name of the company 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 the Petitioner Company will deposit a sum of ₹2,00,000 as cost immediately payable to NCLT, Mumbai Bench (DD favoring Pay & Accounts Officer, Ministry of Corporate Affairs, Mumbai) 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)