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

CP No.: 712/252/NCLT/MB/MAH/2017

Under section 252 of the Companies Act, 2013

In the matter of

M/s. Siddhivinayak Bio-Energy (India) Private Limited, Kunal Estate A – 1, Flat No. 19, Keshavnagar, Chinchwas, Pune – 411033.

....Petitioner/Applicant Company

v.

Registrar of Companies, Pune

..... Respondent

Order delivered on: 09.01.2018

**Coram :**

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

**For the Petitioner :**
Mr. Raghvendra K., Practicing Company Secretary – Authorised Representative for the Petitioner/Applicant Company.

*Per : M. K. Shrawat, Member (J)*

## ORDER

1. This present petition/application has been filed under Section 252 of the Companies Act, 2013 (hereinafter as **Act**) by "M/s. Siddhivinayak Bio-Energy (India) Private Limited" (hereinafter as **Petitioner Company**) praying for restoring its name in the Register maintained by the Registrar of Companies, Pune (hereinafter as **RoC**).

2. The Petitioner Company was incorporated with the RoC, Pune on 29.04.2008 having CIN : U40107PN2008PTC131873.

3. The Petitioner Company is mainly engaged in the business related to bio-coal and all type agricultural products.

4. The name of the Petitioner Company was struck off from the Register on account of the reasons that, the Company is not carrying on any business and that there was no business operation for a period of last two financial years and have not made any

application within such period for obtaining the status of Dormant Company under S. 455 of the Act. Consequentially, the RoC has published a public notice for Striking off and Dissolution of Company i.e. STK – 7 dated 11.07.2017.

**Submissions from the Petitioners:**

5. The Learned Representative for the Petitioner Company submits that, the Petitioner Company is a running Company and has assets as well as corresponding liabilities including the 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 (2) of the Companies Act, 2013.

6. It is further submitted that, the Company accepts that, inadvertently as well as due to lack of Professional Expertise the Company could not file the required documents with the RoC.

7. The Learned Representative for the Petitioner Company further submitted that, the Petitioner Company now has all the remaining documents ready and prepared and is willing to file the same before the RoC, if so permitted. Further the Petitioner Company is willing to file any other necessary document which are required by the RoC.

**Submissions from the Respondent/RoC:**

8. The RoC has forwarded its report dated 06.11.2017 bearing no. ROCP/U/s. 252(3)/2017/90/9785, 9786 inter alia stating therein 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 and that there was no business operation for a period of last two financial years and have not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act. But there is no reply to the said notice from the side of the Petitioner Company. Hence, consequentially the RoC has issued public notice i.e. STK – 7 dated 11.07.2017 intimating that the name of Company is been struck-off from the Register of RoC.

9. It is also submitted that, the Petitioner Company has not filed the Annual Returns and Balance Sheets with the RoC for the F. Y. 2014-2015 and 2015-2016. And as the Statutory Returns were not filed for the said period, the RoC came to conclusion that, the Petitioner Company has ceased to its business. And consequentially the name has been struck-off from the Register of RoC.

10. However, it is further submitted in the said report that the RoC has no objection to restore the name of the Petitioner Company, if the Petitioner Company is willing to comply with the provisions of the Act, subject to imposition of Cost.

**Findings:**

11. That, the facts and circumstances of the case have enlightened that the relevant documents which are to be filed, are ready with the Company and the Company is willing to file the same, if so permitted. Further that, the accounts of the Petitioner Company were audited and the audited accounts have been approved within prescribed time. Further that, it is not a case that the Company is not actively engage in the business or not stopped business activities; as apprehended by the Learned RoC. The ground for strike-off i.e. "no business operations for a period of last two financial years" is not correct.

12. Moreover, by going through the documents of this Petition/Application we came to know that, there is revenue generation of ₹ 1,72,60,173/- as per the Balance Sheet as on 31.03.2016 wherein profit of ₹ 5,53,288/- has been recorded. This factual position evident that the Petitioner Company is a running concern.

13. That, the Company has not deposited heavy cash in its Bank Account during the period of Demonetisation i.e. from 8th November, 2016 to 31st December, 2016, instead of regular trade deposits, as noticed from the annexed Affidavit along with this Petition/Application.

14. Hence, upon considering the facts and circumstances of this present petition/application, 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.

15. Accordingly, this Petition/Application 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 Company shall comply with the Provisions of the Act. And further it will be subject to payment of costs of ₹ 10,000/- 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.

16. This Petition bearing No. 712/252/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. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by RoC.

17. Ordered accordingly. To be consigned to Records.

Sd/-

**BHASKARA PANTULA MOHAN**
**MEMBER (JUDICIAL)**

Sd/-

**M. K. SHRAWAT**
**MEMBER (JUDICIAL)**

**Dated : 09.01.2018**

**Avinash**