

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP No.795/2017

Under section 252(1) of CA 2013

In the matter of

Kesarimal Asalaji Oswal;  
Sanjay Kesarimal Oswal  
Kishore Kesarimal Oswal  
Anjana Kesarimal Oswal  
Jaya Kishor Oswal  
Bharti Sanjay Oswal  
Sandeep Kesarimal Owsal &  
Rekha Sandeep Oswal

Shareholders of  
Arihant Electrotech Pvt. Ltd.  
1535, Shivmangal, 1<sup>st</sup> floor,  
Sadashiv Peth, Tilak Road,  
Pune – 411 030 ... Petitioners

The Registrar of Companies,  
PMT Building, 3<sup>rd</sup> Floor  
Deccan Gymkhana  
Pune – 411 004. ... Respondent.

Order delivered on 10.01.2018

Coram:

Hon'ble Mr. BSV Prakash Kumar, Member (Judicial)

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

For the Petitioner: Adwait Kulkarni, Practicing Company Secretary &  
Devendra Deshpande, Company Secretary in practice.

For the Respondent: None present.

*Per: V. Nallasenapathy, Member (Technical)*

**ORDER**

1. This company petition is filed by Eight Shareholders of Petitioner Company Arihant Electrotech Pvt. Ltd., seeking relief against the respondent to

restore the name of the company in the register of companies maintained by the Registrar of Companies, Pune and also for a direction to HDFC Bank to unfreeze the account No.01488630000013 of the Petitioner Company.

2. The Respondent issued a Notice in Form No. STK-1 to the Petitioner on 07.3.2017 under section 248(1) of the Companies Act, 2013 and Rule 3 of the Companies (Removal of names of Companies from the Register of Companies) Rules, 2016 stating that the company is not carrying on business or operation for a period of two immediately preceding financial years and also not made any application within such period for obtaining the status of a dormant company u/s.455 of the Companies Act, 2013, for which the company has failed to reply. The Petitioners submit that the Company has held its Annual General Meetings in respect of the Financial Years ending 31.3.2015 and 31.3.2016 on 30.9.2015 and 30.9.2016 respectively as required under section 96 of the Companies Act, 2013. The Petitioner submits that the Respondent struck off the company from its record on 11.7.2017 under section 248(5) of the Companies Act, 2013. Further, the Petitioner adds that the Company is in the process of filing statutory compliances for 31.3.2016 and 31.3.2017 but was struck off by the Registrar of Companies, Pune, suo-moto u/s.248 of Companies Act, 2013. The Petitioner submits that on 7.4.2017 ROC, Pune issued Public Notice in Form STK-5 proposing to strike off the Company for not carrying on business for a period immediately preceding the two Financial years. Further, the Petitioner submits that on 27.04.2017 the ROC, Pune issued Public Notice in Form No.STK-5A under section 248(1) of the Companies Act, 2013. However, on 11.7.2017 ROC Pune issued a Notice of Striking off and Dissolution under section 248(5) in Form STK-7 saying that the Petitioner company has been struck off.

3. The Petitioner Company has filed the following documents showing that the Company is in operation right from inception of the Company.

- a) MCA portal printout for submission of E-forms AOC-4 and MGT 7 for F.Y. 2005-06 to 2013-14.



- b) Acknowledged Income Tax Returns for F.Y. 2013-14 till F.Y. 2016-17.
- c) Copy of Form GST REG-06 Registration Certificate.
- d) Copy of Registration Certificate of Maharashtra Shops & Establishment Act.
- e) Employees Pay slip for the period from May 2017 to July 2017
- f) HDFC Bank Statement for the period 1.4.2016 to 31.3.2017
- g) E-Return Form 231 for MVAT Return
- h) Copies of Invoices for ongoing projects.
- i) Copies of Audited financial accounts for the Financial Years 2014-15 and 2015-16

4. The Petitioner Company states that the non-filing of the financial statement for the years 2014-15 and 2015-16 is unintentional and it is an inadvertent mistake on their part, the company is carrying on business, it is active and its employees are working for the ongoing projects.

5. On hearing the submissions of the Professional appearing on behalf of Petitioners, the Report of Registrar of Companies, Pune and on perusing the documents filed, it is clear that the Company is in operation right from its inception and unless otherwise the relief is given to the company, the employees, the customers, Shareholders, Creditors and other Stakeholders of the company will be put to great hardship. The Registrar of Companies, Pune also filed his Report saying that he has no objection, however, the Petitioner may be directed to file the pending financial statements and Annual Reports within 30 days, with cost.

6. 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.

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

Sd/-

V. NALLASENAPATHY  
Member (Technical)

Sd,

BSV PRAKASH KUMAR  
Member (Judicial)