

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

(12)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 21/09/2017 AT 10.30 AM

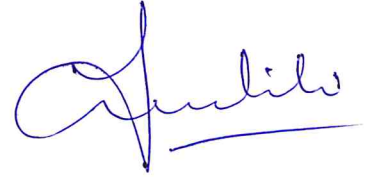
PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER - JUDICIAL
SHRI. S. VIJAYARAGHAVAN - MEMBER - TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : CP/83/2017
NAME OF THE PETITIONER : SREE NAKSHATRA PROJECTS AND DEVELOPERS
PVT LTD
UNDER SECTION : 252

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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AMBICL-B
Company Prosecutor
Doe, Kuala

Respondent



2. Rajasekhar VK
consult@nslaw.in | 95001 53344

Counsel for the petitioner

Rajanathan.

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IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/83/252/2017

Under Section 252 (3) of the Companies Act, 2013.

In the matter of

**Sree Nakshatra Projects and Developers Private
Limited**

Vs.

The Registrar of Companies, Kerala

Order delivered on 21st of September, 2017

CORAM

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

*For Applicant(s) : Mr. V.K.Rajasekhar, Counsel
For Respondent(s) : ROC, Kerala*

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under consideration is a Company Application that has been filed by the Applicant Company viz., Sree Nakshatra Projects and Developers Private Limited having CIN No. U45200KL2011PTC029795 and its Registered Office is situated at 'Karthika' TC 33/2942,

Vettucaud Kadakampally, Thiruvananthapuram,
Kerala- 695 007.

2. The Application has been numbered as CP/83/252/2017 which has been filed against the Order No. ROC (K) STK-7/248(5)-2017/570, dated 16.06.2017 of the Registrar of Companies, Kerala, Ernakulam, passed under Sub-section (5) of Section 248 of the Companies Act, 2013, by which the Applicant Company has been struck off from the Register of Companies maintained by ROC.

3. The Applicant Company is a private limited by shares and got incorporated on 11.11.2011 under the Companies Act, 1956. The Authorised Share Capital of the Applicant Company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up capital is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The main object of the Applicant Company is to carry on the business, to acquire, develop and construct all sorts of commercial and residential projects and it

carries on the business from its Registered Office mentioned above.

4. The Applicant Company, through its Counsel, submitted that, the original subscribers had failed to appoint the first auditors of the Applicant Company. Therefore, the financials for the year 2012-13 could not be got audited, approved and adopted. However, after the induction of Reyan Markose and Marry Markose Sherine as Directors, the balance sheets and annual returns of the Applicant Company have been drawn up, audited and approved from the year 2013-14 onwards. However, the same could not be filed due to the reason that the financial statements and annual returns for the year 2012-13 have not been got signed by the erstwhile Directors of the Applicant Company. Until the balance sheets, annual returns of the Applicant Company for the year 2012-13 are filed, MCA system will not allow to file subsequent balance sheets and annual returns. Due to this, a notice No. ROC (k)-STK/248(2) 2016-17 dated 30.03.2017 was issued

proposing to strike off the name of the Applicant Company from the Register of Companies, unless reasonable cause is shown to the contrary within 30 days from the date of publication of the notice. The Applicant Company duly submitted its response to the said notice on 04.05.2017 explaining the reasons for non-filing of the balance sheets of the company. However, the Registrar of Companies, Kerala, Ernakulam has ignored the reply and proceeded to strike off the name of the Applicant Company from the Register of Companies. Therefore, being aggrieved by the action of striking off the name of the Applicant Company, the instant Application has been filed to seek the direction to the Registrar of Companies, Kerala, Ernakulam to restore the name of the Applicant Company to the Register of Companies in terms of Sub-Section (3) of Section 252 of the Companies Act 2013 and to permit the Applicant Company to complete the formalities relating to all filings of the company prescribed under the Companies Act, 2013.

5. We have heard the Counsel for the Applicant and the Counsel representing the Registrar of Companies, Kerala, Ernakulam. The Counsel representing the Registrar of Companies submitted that they have no objection, provided, the Applicant Company is directed to complete the formalities relating to all pending filings of the Company prescribed under the Companies Act, 2013. The Counsel has also suggested to impose penalties/costs, on the Applicant Company.

6. After hearing the Counsel for both the parties and perusal of the record placed on file, we allow the Application and direct to the Registrar of Companies, Kerala, Ernakulam, for restoring the name of the Company in the Register of Companies. The Applicant is also directed to deliver a copy of this Order to the Registrar of Companies, Kerala, Ernakulam, within 30 days from the date of this Order. On receipt of the Order, the Registrar of Companies shall in his official name and seal, publish the Order in the Official Gazette. The Applicant Company shall file pending

financial statements and annual returns with the Registrar and comply with the requirements prescribed under the provisions of the Companies Act, 2013 and the Rules made thereunder within the time as may be granted by the Registrar of Companies, Kerala, Ernakulam. The Applicant is also directed to file an Affidavit with the Registrar of Companies to the effect that during the interregnum period, the Applicant Company did not involve itself in any of the unlawful activities. Accordingly, the Application is allowed. There is no order as to costs.

S. Vijayaraghavan

S.VIJAYARAGHAVAN,
MEMBER (TECHNICAL)

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CH. MOHD SHARIEF TARIQ
CH.MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)