

IN THE NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH, CHENNAI

CP/118(252)/2017

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

In the matter of
M/s Guna Engineering Private Limited
Vs.
Registrar of Companies, Chennai, Tamilnadu.

Order delivered on 23 .11.2017

For the Petitioner: Shri.V.Sankar, CA

Per: K.Anantha Padmanabha Swamy, Member(J)

ORDER

1. This is an application No.118/2017 filed under Section 252 of the Companies Act, 2013 (hereinafter called as the Act) filed by M/s.Guna Engineering Private Limited (hereinafter called as the Company) seeking a direction to the Registrar of Companies, Tamilnadu, Chennai (the ROC) to restore the Company in the Registrar of Companies.

2. Brief averments of the application are that the Company was incorporated on 05.08.2009 in the State of Tamil Nadu and the authorised capital of the Company is Rs.25,00,000/- divided into 2,50,000 equity shares of Rs.10/- each and the paid up capital of the Company is Rs.5,00,000/- divided into 50,000 equity

shares of Rs.10/- each. The Company is engaged in the business of executing contract works for Private parties, for laying and formation, Structural construction works, Fabrication related works, and all civil nature of works at Karnataka, Uttarpradesh, Gujarat and Telengana mentioned in clause III of its memorandum of association of the Company. The Company has filed its annual returns till the financial year 2012-2013 with the ROC, however, inadvertently the annual returns of the subsequent years have not been filed with the ROC as the Company did not have any professional guidance. The ROC has issued notice under section 248 of the Act but the Company has stated that they did not receive the same. The ROC subsequently, "struck off" the name of the Company from the Register of Companies and the Company came to know of the same only from the Notice of "Striking Off" and Dissolution bearing **No.ROC/CHN/STK-7/1/2017 dated 5-7-2017** issued by the ROC under section 248(5) of the Act.

3. Subsequently, the Company has filed Financial Statements and Annual Returns for all the 3 years with the ROC on 13.6.2017 with necessary Additional fees. The Company is still carrying on its business and its activities and therefore the present

application is filed challenging the above said “Notice of Striking Off and Dissolution” of the ROC.

4. The petitioner has stated that the Company failed to file the balance sheets and the annual returns from the financial years 2013-2014 to 2015-2016, even though they were already prepared and kept ready for filing with one Shri.Kabeerdass Munikrishna, Director of the Company. Due to his continuous stay in the work sites, and very short visit to the Registered Office, the Financial Statements and Annual Returns for the years ending 31/03/2014, 31/03/2015 & 31/03/2016 were not filed in time with the ROC. Subsequently, the petitioner herein has filed all the 3 years financial statements and Annual Returns with the Registrar on 13th June, 2017 with necessary Additional Fees. The copies of the GAR 7 Receipt generated by the MCA Portal for having received the Documents with the necessary Additional Fees for the said three years have been submitted. The petitioner, herein did not inform the Respondent about the compliance separately under the belief that the respondent would be taking action after verification of the updated compliance. However, action under Section 248 of the Act was initiated by striking off the name of the Company by

the Registrar of Companies and consequently the order of “struck off” was published in the Gazette of India **dated 15th-21st July, 2017 in page No.14645 under S.No.4596.**

5. “The ROC, who is respondent herein, has filed counter affidavit wherein the details of the Company such as incorporation, address of the registered office and its main objects as per the memorandum of association are mentioned. While submitting the above facts the ROC has stated that the application may be considered on merits and to direct the applicant to file all pending financial statements and annual returns and pass order imposing costs on the applicant. The ROC inter-alia mentioned in the counter statement that the Company be directed to file an undertaking stating that the accounts of the company was not used as means to transact tainted money during the period of demonetisation.

6. Heard. Perused pleadings and the documents filed in support of the contention of the both parties.

7. The PCA representing the applicant company has submitted that the company failed to comply with the statutory requirements like filing of financial statements and annual returns from the years 2013-2014 to 2015-2016 in time and subsequently

filed the said returns by one Director Shri.Kabeerdass Munikrishna due to continuous stay in the work sites and very short visit to the registered office. For the said non-compliance, the ROC has issued the notice bearing No.ROC/CHN/STK-7/1/2017 dated 5-7-2017 “Striking off” and dissolution. In this connection, the PCA has submitted that show cause notice issued by the ROC has not been received by the Company. Being aggrieved by the action of “striking off” the name of the Company from the Register of Companies, the present application has been filed seeking directions to be given to ROC for restoration of the name of the Company in the Register of Companies in terms of Section 252(3) of the Act and also to permit the applicant to comply with all the statutory requirements as per the Act.

ORDER

1. Having satisfied with the reasons mentioned above, I am of the opinion that it would be just and proper to order **restoration of the name of the Company in the Register of Companies.**
2. The Company shall file all the pending financial statements and annual returns with ROC as per the Act

and Rules made thereunder besides filing an affidavit stating that the Company was not involved in money laundering activities during demonetization period or any unlawful activities during the relevant period. Further I direct the applicant company to pay **the cost of Rs.20,000/-** (Rupees twenty thousand only) to the ROC while submitting the documents. Accordingly the **application is allowed.**

3. The ROC is directed to restore the Company in the Registrar of Companies. The applicant is directed to **place this order with ROC within 30 days** from the date of receipt of this order.

Company Petition No.CP/188/(252)/2017 is hereby **disposed of.**


(K.Anantha Padmanabha Swamy)
Member(Judicial)

/pb/