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IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI

CP/125/(252)/2017

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

In the matter of

M/s. SMI Auto India Private Limited

Vs.

The Registrar of Companies, Tamilnadu, Chennai

Order delivered on 28th of November, 2017

CORAM

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

<i>For Applicant(s)</i>	<i>: Mr. A. Kalyana Subramaniam, PCS</i>
<i>For RoC</i>	<i>: Mr.B. Sarath Babu, Counsel</i>

ORDER

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

1. Under consideration is a Company Application that has been filed on 19.09.2017 under Section 252 (3) of the Companies Act, 2013 by the Applicant Company viz., M/s. SMI Auto India Private Limited having CIN No. 29219TN2007PTC063194 and its Registered Office is situated at No. 373, Chettipedu

Main Road, Kuthampakkam Village, Poonamallee, Chennai-600 124. The prayer is made to seek order for restoration of the name of the Applicant Company to the Register of Companies maintained by the concerned Registrar of Companies.

2. The Applicant is a private limited company and was incorporated on 20.04.2007 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 in India or elsewhere the business of manufacture, process, assemble, erect, install, repair, remodel, overhaul, service, maintain, import, export, produce, convert, fabricate, finish, remodel, recondition, buy, sell, handle, contract.

3. It has been stated that after incorporation, the Applicant Company has been continuing its business

operations. The Applicant Company failed to file the Financial Statements and Annual Returns for the period from 2007-08 to 2015-16. Thereafter, the Applicant Company has shifted its Registered Office in the year 2010. In this regard the necessary documents were not filed with the Registrar of Companies. Therefore, the notice issued by the Respondent under Section 248 of the Companies Act, 2013 was not received by the Applicant Company. Hence, the name of the Applicant Company was 'struck off' from the Register of Companies under Section 248(5) of the Companies Act, 2013 read with Rule 3 of the Companies (Removal of Name of Companies from the Register of Companies) Rules, 2016.

4. Now, the Applicant Company prayed that in the event of restoration of the name of the Applicant Company in the Register of Companies maintained by the concerned Registrar of Companies, it shall file all outstanding statutory statements for the years for which the default occurred along with the filing fees

and the additional fees as applicable on the date of actual filing.

5. The Counsel appearing for the RoC filed the report on 15.11.2017 wherein it has been stated that the Applicant Company has not filed its Balance Sheets and Annual Returns since its incorporation, for the reasons best known to it. Hence, the Respondent initiated action under Section 248(1) of the Companies Act 2013 for “striking off” the name of the Applicant Company from the Register of Companies, and consequently, the name of the Applicant Company was ‘struck off’ from the Register of Companies and was published in Official Gazette dated 15th -21st of July, 2017. It is further stated that the RoC has no objection in restoring the name of the Applicant Company back to the Register of Companies with such costs as deemed fit and proper.

6. Heard the representative appearing on behalf of the Applicant and Counsel for the RoC, and perused the record. Keeping in view the facts and

circumstances involved in the case and the submissions made by the representative appearing on behalf of the Applicant and the Counsel for the RoC, the Application is allowed and restoration of the name of the Applicant Company to the Register maintained by the concerned RoC is ordered. The Applicant Company is hereby directed to deliver a certified copy of this Order to the Registrar of Companies within 30 days from the date of this order. On such delivery, the concerned Registrar of Companies shall in his official name and seal, publish the Order in the Official Gazette, as prescribed.

7. The Applicant Company is further directed to file all pending Financial Statements and Annual Returns with the concerned Registrar of Companies by making compliance 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 concerned Registrar of Companies.

8. The Applicant Company is also directed to submit an Undertaking to the Registrar of Companies stating therein that the accounts of the Company were not used as a means to transact tainted money during the period of demonetization.

9. The fine to the tune of Rs.20,000/- is hereby imposed on the Applicant Company which shall be disbursed to the concerned Office of the Registrar of Companies as per the procedure prescribed for the purpose of the expenses to be incurred by the Registrar of Companies for processing the case file of the Applicant Company for getting the name of the Company restored to the Register of the Companies.

10. Accordingly, the Application stands disposed of.


[CH.MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

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