

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SINGLE BENCH, CHENNAI

**CP/111/(252)/2017**

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

In the matter of

**M/s. Venku Hospitals Private Limited**

**Vs.**

**The Registrar of Companies, Tamilnadu, Chennai**

*Order delivered on 7<sup>th</sup> of December, 2017*

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

*For Applicant(s)*

*: Mr. M. Rathinakumar, PCS*

*For RoC*

*: Mr. B. Sarath Babu, Counsel*

**ORDER**

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

1. Under consideration is a Company Application that has been filed on 21.08.2017 under Section 252 (3) of the Companies Act, 2013 through Director of the the Company viz., M/s. Venku Hospitals Private Limited having CIN No. U85110TN1994PTC026952. The Company's Registered Office is situated at 5/12, V. Mount Poonamalle, Nandambakkam, Chennai-89.

The prayer is made to pass an order for restoration of the name of the Applicant Company to the Register of Companies maintained by the concerned Registrar of Companies.

2. The Company is a private limited and was incorporated on 04.03.1994 under the Companies Act, 1956. The Authorised Share Capital of the Company is Rs.40,00,000/- divided into 4,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up capital is Rs.39,28,500/- divided into 3,92,850 equity shares of Rs.10/- each. The main object of the Company as stated is to undertake, promote, assist or engage in all kinds of research and development work required to promote, assist or engage in setting up hospitals and facilities for manufacturing medical equipment; to carry on the business of design, construction and running of all kinds of hospitals, dispensaries, clinics, laboratories and health centres and to design, manufacture, import, export, buy, sell, install, maintain and improve all kinds of equipment

and instrumentation for hospitals, dispensaries, clinics, laboratories and health centres.

3. The Company did not file the Annual Accounts and Annual Returns from the financial year ending 2000-2001 to till date. In this connection, the Company received show cause notice dated 20<sup>th</sup> of July, 2005 and failed to respond to the notice within a period of 10 days from the receipt of the said notice. As a result, the name of the Company was 'struck off' from the Register of Companies under Section 560 of the Companies Act, 1956 (corresponding Section 248(5) of the Companies Act, 2013). Now, the Company prayed for restoration of its name to the Register of Companies maintained by the concerned Registrar of Companies.

4. The Counsel appearing for RoC filed the report on 10.11.2017, wherein it has been submitted that the name of the Company was "struck off" from the Register of Companies and upon such striking off, those on Board would ceased to be the Directors of the said Company.

5. Written Arguments have been filed by the PCS representing the Company. Heard the PCS appearing on behalf the Company and the Counsel for the RoC, and perused the record.

6. The Company Application has been filed through Director of the Company, who did not file Annual Accounts and Annual Returns for a period of more than fifteen years and is disqualified under Section 274 (1) (g) (A) of the Companies Act, 1956 (correspondent Section 164 (2) (a) of the Companies Act, 2013). Therefore, being disqualified by operation of law, he (Director) is not competent to file Company Petition on behalf of Company. On this ground alone, the Company Application is liable to be dismissed.

7. Besides the above, it is an admitted fact that the Company did not file its Annual Accounts and Annual Returns with effect from the Financial Year ending 2000-01 onwards till date due to which it has been "struck off" from the Register of the Companies during



2005, as the show cause notice was given on 20<sup>th</sup> of July, 2005 as contemplated under Section 560(1) of the Companies Act, 1956. There is no plausible explanation provided in the Application for non-filing of the Annual Accounts and Annual Returns with effect from 2000-01 onwards till date. It has also been admitted by the PCS during the hearing that the Company is not currently engaged in any business, it has only a plot of land. Therefore, a shell/defunct company cannot be ordered to be restored. Thus, in the circumstances, this Bench is not satisfied to order the restoration of the name of the Company to the Register of Companies maintained by the concerned Registrar of Companies. Accordingly, the Company Application stands rejected. The Registry shall send a copy of this Order to the concerned RoC for information and record.

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[CH.MOHD SHARIEF TARIQ]  
MEMBER (JUDICIAL)