

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CP/150(252)/2017

Under Section 252 of the Companies Act, 2013

In the matter of
M/S. KINGSTON AUTO BODY WORKS PRIVATE LIMITED
VS.
REGISTRAR OF COMPANIES, KERALA

Order delivered on 13.12.2017

CORAM
K. ANANTHA PADMANABHA SWAMY, MEMBER (J)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Petitioner: Shri.Balu Sridhar, PCS

PER: K.ANANTHA PADMANABHA SWAMY, MEMBER(J)


ORDER

1. This is an application No.150/2017 filed under Section 252 of the Companies Act, 2013 (hereinafter called as the Act) filed by M/s.Kingston Auto Body Works Private Limited CIN U34201KL2012PTC030494 (hereinafter called as the Company) seeking a direction to the Registrar of Companies, Kerala (the ROC) to restore the Company in the Registrar of Companies.

2. Brief averments of the application are that the Company was incorporated on 09.02.2012 in the State of Kerala and the authorised capital of the Company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each and the paid up

capital of the Company is Rs.10,00,000/- divided into 1,00,000 equity shares of Rs.10/- each. The Company is engaged in the business of body building of tippers, covered body, insulated body, bus body, platform body and all type of auto body works and to manufacture, fabricate and assemble etc. and to act as brokers and marketing agents for aforesaid items. The Company has not filed its annual returns from the financial year 2012-2013 onwards with the ROC. The ROC has issued notice under section 248 of the Act. 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 bearing **No.ROC/(k)/STK-7/248(5)/2017/21570 dated 16/06/2017** issued by the ROC under section 248(5) of the Act.

3. The petitioner has stated that the Company has failed to file the balance sheets and the annual returns from the financial years 2013 onwards to till date. 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 July, 2017 in page No.14821 under S.No.976.**



4. "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 were not used as means to transact tainted money during the period of demonetisation.

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

6. The PCS 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 2012-2013 onwards to till date. For the said non-compliance, the ROC has issued the notice bearing **No.ROC/(k)/STK-7/248(5)/2017/21570 dated 16/06/2017** for "Striking off". In this connection, the PCS 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. Having satisfied with the reasons stated in the petition for non filing of returns and forms with ROC, we are inclined to pass the following

ORDER


1. The Tribunal is 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 it is

directed that the applicant company shall 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/150/(252)/2017 is hereby stands **disposed of.**


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

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