

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

CP/142 (252)/2017

Under Section 252 of the Companies Act, 2013

In the matter of

M/s. Progressive Cybernetics Private Limited	... Appellant
V/s	
The Registrar of Companies, Kerala	... Respondent

Order delivered on: 29.12.2017

Coram:

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

For the Petitioners: *Shri. Vinu Thomas, PCS*

For the Respondent: *Smt. Ambili Menon, CP*

For ROC, Kerala

ORDER

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

1. Under consideration is a Company Petition No. 142/252/2017 filed by the above mentioned Petitioner Company under section 252(1) of the Companies Act, 2013 (hereinafter called as the Act) by virtue of which M/s. Progressive Cybernetics Private Limited, having CIN No: U72200KL2000PTC013904 and its registered office is situated at XV-83 IInd Floor, Koyas Tower, P.O Junction Muvattupuzha, Kerala-686661. The prayer is made to seeking a direction to The Registrar of Companies, Kerala (the ROC) to restore the Company in the Register of Companies.

2. Brief averments of the Applicant Company is a Private Limited Company and it was incorporated on 28.04.2000 under the Companies Act, 1956. The Authorised Share Capital of the Company is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each and the issued, subscribed & paid up Capital is Rs.2,00,000/- divided into 20,000 equity shares of Rs.10/- each. The main object of the Applicant Company is engaged in the business of software development, internet web design, CAD/CAM consultancy service and design, hardware consultancy, network software design and consultancy and sale including expert of computer software for commercial, technical and personal application including educational software and for the design and development for sale of such software packages etc.
3. It has been submitted that the Applicant Company is in the field of developing software applications/ products. In the initial stage of software development, the Applicant Company was not able to generate sufficient income and the applicant company was suffering from serious financial crisis during the financial years starting from 2013 to 2016. It is further stated that the applicant company was carrying on business at the time of strike off and it was handling the project of well-known business groups which is including

Cochin International Airport Limited. Moreover, the company is maintaining nearly 50 website domains and is handling AMC of many corporates in India and abroad and there are 11 employees working in the Applicant Company. Thus striking off the company will be a major blow to all the stakeholders. The Applicant Company has not filed its Financial Statements and Annual Returns for three consecutive financial years 2013-2014 to 2016-2017 only due to inadvertence and due to the reasons as mentioned above.

4. The ROC has issued notice under section 248 of the Act, 2013. The ROC has subsequently, “struck off” the name of the Company from the register of companies and the Company came to know of the fact only from the Notice of “Striking Off” Form STK-1 issued by the ROC under section 248(5) of the Act. The Company is still carrying on its business and its activities and therefore the present application is filed for restoring the status of the company in the Registrar of Companies.
5. The Counsel appearing for the ROC filed the report wherein it has been stated that the Applicant Company has not filed its Financial Statements and Annual Returns for three consecutive financial years 31.03.2014, 31.03.2015 &

31.03.2016. The Respondent has therefore initiated action under section 248(1) read with Rule 3 of the Companies (Removal of names of the companies from the Register of Companies) Rule-2016 for “striking off” the name of the Company from the Register of Companies and consequently the fact of “struck off” was published in the Gazette of India dated 10.05.2017 & 11.05.2017. The ROC inter-alia mentioned in his report 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. It has further submitting the above facts the ROC has stated that the application may be considered on merits and to direct the applicant Company to file all pending financial statements and annual returns and pass an order levying cost on the applicant Company.
7. Heard. Perused pleadings and the documents filed in support of the contention of the both parties.
8. 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 for three consecutive financial years 2013-2014 to 2016-2017. For the said non-compliance, the ROC has issued

the notice bearing No. ROC(k)/STK/248(2)2016-2017/6218 dated 31.03.2017 “Striking off”. In these circumstances, the Company has filed this petition for restoring the name of the company in the Register of Companies.

9. The abovesaid violation is accepted by the applicant Company and gave reasons for failure of the compliances as pointed out by ROC.

10. Further, the respondent/ROC in their report by way of counter submitted that this application may be considered on merits with a direction to the petitioner to file the above statements. Considering the above and 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. Having satisfied with the reasons mentioned above, we are 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 we direct the applicant company to pay **the cost of Rs.20,000/-** (Rupees Twenty Thousand Only) which has to be paid to the Registrar of Companies as per the procedure prescribed for incurring the expenses for processing the file for restoring the Company in the register of ROC. Accordingly, the **application is allowed.**

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

4. Accordingly the Company Petition No. **CP/142/(252)/2017** stands **disposed of.**


(S. Vijayaraghavan)
Member (Technical)


(K. Anantha Padmanabha Swamy)
Member (Judicial)

TJS