

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CA.NO.76/252/HDB/2017  
U/s 252 of the Companies Act, 2013

In the matter of

Arete Power & Infra Private Limited  
Regd Office : 8-3-945,  
Pancom Business Centre,  
104 & 105, 1<sup>st</sup> Floor,  
Ameerpet, Hyderabad – 500073  
Telangana.

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OF THE ORIGINAL

...Applicant

Versus

The Registrar of Companies  
2<sup>nd</sup> Floor, Corporate Bhawan, GSI Post  
Tattiannaram Nagole  
Bandlaguda, Hyderabad – 500068

...Respondent

Judgement delivered on 10.10.2017

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present:

For the Applicant:

Dr. S.V. Ramakrishna, Advocate along  
with Shri K.Ch. Venkat Reddy, PCS

**Per: Ravikumar Duraisamy, Member (Technical)**

**JUDGEMENT**

1. The present Company Application bearing C.A.No. 76/252/HDB/2017 was filed by Arete Power & Infra Private Limited under Section 252 of the Companies Act 2013



on 14-08-2017. The Applicant Company has filed the Appeal in Form No. NCLT-9, seeking to restore the Name of the Company in the Register of Companies under Section 252 of Companies Act, 2013 and further grant time for filing closure of the Company in Form STK-2 along with requisite attachments and allow the Company comply with the provisions of Companies Act, 2013.

2. Heard Dr.S.V. Ramakrishna, Learned Counsel along with Shri K.Ch.Venkat Reddy, Learned PCS for the Applicant.

Brief facts of the case are as under:-

3. The Company was incorporated on 30-08-2011 as a Private Limited Company with CIN: U40100TG2011PTC076266. The Authorised share capital of the Company is Rs.1,00,000/- divided into 10,000 equity shares of Rs.10/- each. The current issued, subscribed and paid up capital of the Company is Rs.1,00,000/- divided into 10,000/- equity shares of Rs.10/- each.
4. It was also submitted that due to some operational issues and financial crises, the Company could not start its business since incorporation and the Company did not even file RoC Annual filings within the stipulated time. However, the Company has decided to close the Company by filing requisite form STK-2 and was in the process of the same but the RoC has strike off the Company on 28.06.2017 without any prior notice. As per Section 252 of the Companies Act, 2013, to restore the status of the Company as "Active" by Ministry of Corporate Affairs, the Company needs to file an appeal to the NCLT for restoration of the name in the Register of Companies. Accordingly, this appeal is filed with an intention to get the name of the Company restored in the Register of Companies in order to close the Company by following required procedure under the





Companies Act, 2013. It was further stated that the Company has 3 Directors who were managing the business activities of the Company since very long time.

5. The matter was listed before this Bench on 04.09.2017, 14.09.2017 and 28.9.2017. During the hearing held on 04.09.2017 it was recorded that the Application is incomplete, hence returning the file. When the matter was heard on 14.09.2017, it was recorded that the report from ROC is still awaited and case is posted to 28-09-2017. On 28.9.2017, we have heard the Counsels for the Petitioner Dr.S.V.Ramakrishna along with Shri K.Ch.Venkat Reddy and Orders were reserved.
6. ROC vide its letter dated 27-09-2017, submitted that the Company / Appellant has not submitted last two years audited balance sheets along with appeal to verify the affairs of the Company.
7. Upon perusal of the records, it is observed that the Company was incorporated on 30-08-2011 and it did not commence its business since incorporation and the Applicant has not even filed annual filings with RoC so far.
8. From the submissions of the Applicant it is noted that the Applicant Company itself has decided to close the Company by filing requisite form with the RoC.
9. Upon perusal of the records, we find no lacunae in RoC striking off the Company's name from the Register of Companies as per Section 248 of the Companies Act, 2013 as the Company has failed to commence its business since incorporation (i.e. 30-08-2011), not carrying on business or operation for a period of two immediately preceding Financial Years.



10. In view of the fact that the Company did not commence its business since its inception i.e. 30-08-2011, we are of the considered view that there is no justification for Restoration of the Company's Name in the Register of Companies as prayed for. On the other hand, if the prayer of the Applicant Company is accepted, we are of the prima facie view that the Government's crackdown on shell / dormant companies will be jeopardized, for which the Bench will not be a party.

11. The Bench has also taken a serious view to the allegation that RoC has struck off the Company's name on 28.06.2017 without any prior notice. However, upon perusal of the records, it is observed that the allegation is factually incorrect as RoC has given opportunities to the Company by way of issue of notice in Form STK-5, STK-7 and was also published in the Official Gazette, thereby the names of the Companies which are struck off are also dissolved.

12. In view of the above discussions, facts of the case, the Bench dismissed the appeal filed by the Applicant Company and CA No.76/252/HDB/2017 is accordingly dismissed.

13. No order as to costs.

Sd/-

**RAVIKUMAR DURAISAMY**  
MEMBER (TECHNICAL)

Sd/-

**RAJESWARA RAO VITTANALA**  
MEMBER (JUDICIAL)

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*[Signature]*  
Dy. Regr./Asst Regr/Court Officer/  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
**CERTIFIED TRUE COPY**  
केस संख्या  
CASE NUMBER CA No. 76/252/HDB/2017  
निर्णय का तारीख  
DATE OF JUDGEMENT 10.10.2017  
प्रति तैयार किया गया तारीख  
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