

IN THE NATIONAL COMPANY LAW TRIBUNAL HYDERABAD
BENCH, HYDERABAD

CA.No.70/252/HDB/2017
U/s 252 of the Companies Act, 2013

In the matter of:

Nimmagadda Surya Pradeep Horticultural Farms Pvt Ltd
CIN No: U01122TG2004PTC043317
Plot No. 110, HIG Phase-IV
Vanasthalipuram,
Hyderabad, Telangana- 5000070

... Appellant

Versus

The Registrar of Companies
of Andhra Pradesh & Telangana
2nd Floor, Corporate Bhawan,
Near- Central Water Board,
GSI Post, Nagole, Badlaguda,
Hyderabad - 500 068

...Respondent

Date of Order: 27.10.2017

CORAM

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

Parties / Counsels Present

For the Appellant:

Mr.M.Madhusudhan
Chartered Accountant

For the Respondent:

Mr.R.C.Mishra, ROC



Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Appeal bearing CA.No.70/252/HDB/2017 is filed by M/s. Nimagadda Surya Pradeep Horticultural Farms Private Limited under section 252 of the Companies Act, 2013, by inter-alia seeking to change the status of the Company to “Active” to enable them to file the annual returns and balance sheets for the outstanding period with ROC.
2. Brief facts of the case, as mentioned in the application, are as follows:
 - a) M/s. Nimmagadda Surya Pradeep Horticultural Farms Private Limited (Hereinafter referred to as the Company) is a Private Limited Company incorporated under the provisions of the Companies Act, 1956 in the erstwhile state of Andhra Pradesh (presently the state of Telangana), under the name and style “M/s. Nimmagadda Surya Pradeep Horticultural Farms Private Limited” on May 24, 2004.
 - b) The main objects of the Company as per the MOA of the Company are to carry on the business of horticulture, farming, floriculture, sericulture, cultivators of all kinds of food grains, seeds, fruits, proprietors of orchards and traders, exporters and sellers of and dealers in products of farming, horticulture, floriculture, sericulture and tissue culture, and manufacturers of drinks



alcoholic or otherwise including beverages produced from such products, etc.,

- c) The main obstacle is the Registered Office of the Company is situated at Vanasthalipuram, Hyderabad and the agricultural farms are situated at a distance of about 70 km from the City and the Managing Director and the Director stay at the agricultural farms only to look after and as such the Company has appointed the accountant to come to the farm and prepare the accounts on part time basis as regular accountants refused to join. However even the part time accountants also did not stick on to the Company as the main evidences, vouchers and accounting events happen at the agricultural farm and the same have to be collected weekly or fortnightly once and the accounts have to be prepared at the registered office of the Company. The main obstacle is the distance in between the Registered Office of the Company and the agricultural farm which is about 70 km, due to this reason the Company could not file the annual returns regularly.
- d) The Company has filed its annual returns and balance sheets, till financial years 2010-11, and it could not file the subsequent annual returns and balance sheets, as the part time Accountant of the Company, who was dealing with the work, left the employment of the Company.
- e) A public notice was issued by the Registrar of Companies, Hyderabad proposing to remove/strike off the name of the Company from the Register of Companies in form number STK-5



dated 05.05.2017, pursuant to the subsection (1) and subsection (4) of section 248 of the Companies Act, 2013, and Rule 7 of the Companies (Removal of names and of Companies from Register of Companies) Rules, 2016. The status of the Company in master data in MCA website showing as strike off, but the name of the Company was not listed in the list enclosed to the public notice of strike off and dissolution in Form No. STK-7 dated 21.07.2017.

- f) On verification with the MCA, and as per Company's master data, the Company's status is showing as strike off due to non-filing of annual returns and balance sheet since financial year 2011-12. However the Company has filed Income Tax Returns up to 2015-2016 and the Company is running its business, as per entries in balance sheet declared as on 31st March 2016, and the provisional balance sheet as on 31st March 2017.
- g) As per the balance sheet of 31st March 2016, the revenue from operations is Rs.3,34,860/-, inventories is Rs.727,850/- and the employment expenses is Rs.1,48,980/- the provisional balance sheet as at 31st August 2017 shows a profit of Rs.49,926 /-and inventory is of about Rs.781,452/- and revenue from operations is Rs.2,23,600/- out of its business.
3. The case listed for admission on various dates viz: 30.08.2017, 08.09.2017, 29.09.2017, 17.10.2017 and 27.10.2017.
4. Heard Mr. Madhusudhan, Practicing Chartered Accountant for the Applicant/Appellant Company, and Mr.Ramesh Chandra Mishra, Registrar of Companies,



and also perused pleadings along with extant provisions of law.

5. Mr.Madhusudhan, Practicing Chartered Accountant, submit that the status of the Company in master date in MCA website is showing strike off, but the name of the Company was not listed in the list enclosed to the Public Notice of strike off and dissolution in Form No.STK-7 dated 21.07.2017. Therefore, he submitted that the Company is carrying on normal business, as per Memorandum of Association, and the balance sheet of the Income Tax returns filed also shows that the Company is running its normal operations. Therefore, the Company wanted to continue its normal operations, and it may be permitted to file its objections to the proposed removal/strike off the name of the Company from the Registrar of Companies to the Registrar of Companies, and the Company is prepared to submit all pending Annual Accounts and the annual Returns pertaining to the Financial Year 2015-16 within time stipulated by the Tribunal and also pay the required Compounding Fee / Additional fee in accordance with the Rules.
6. Mr.Ramesh Chandra Mishra, ROC, who is present today to assist the bench to decide the case, has submitted that the impugned action was taken strictly in accordance with law and the allegation made by the applicant is not correct. However, he has submitted that the Tribunal may consider the case of the Company, subject to filing all pending returns namely annual returns, balance sheets with fee and addl. fees as prescribed under the provisions of the Companies Act, 2013. It may also be directed to ensure statutory



compliance of applicable provisions of the Companies Act, 2013 without any delay in future.

The Applicant is at liberty to submit his objections to the proposed remove/strike off of the Company with relevant documents and he would consider to take appropriate decision on the objections.



7. As stated supra, the Company is having business operations, and as at 31st August 2017, provisional balance sheet shows a profit of Rs.49,926/-and inventory is of about Rs.781,452/- and revenue from operations is Rs.2,23,600/- and Income Tax also shows the same. Therefore, the Applicant Company should be given an opportunity to submit its objections along with supporting documents so as to consider the case to change its status from 'Strike Off' to 'Active' by the Register of Companies. Therefore, I am of prima facie view that the Company should be permitted to continue its normal business operations in accordance with law.
8. In view of the above facts and circumstances of the case, the Company Appeal bearing CA No.70/252/HDB/2017 is disposed of with following directions:
 - a. The Appellant/Applicant Company is permitted to submit its objections to the proposed remove/strike off the name of the Company from the Register of Companies vide public notice No.ROC/HYDERABAD/STK-1/Revised, dated 05.05.2017, within a period of two weeks from the date of receipt of copy of this order;

- b. The Registrar of Companies is directed to consider and pass appropriate order with regard to the impugned notice dated 05.05.2017 within two weeks thereafter, and communicate same to the Applicant/Appellant;
- c. The Applicant/Appellant is directed to pay a cost of Rs 25,000/- (Rupees twenty five thousand) to be paid into the account of Pay and Accounts Officer (PAO) Ministry of Corporate Affairs payable at Chennai;
- d. The Appellant Company is at liberty to approach this Tribunal, in case, it is aggrieved by the decision of the Registrar of Companies, in pursuant to the final decision taken by Registrar of Companies in pursuant to the above direction;
- e. This order is confined to the violations, which ultimately leads to the impugned action of striking off of the Company, and it will not come in the way of ROC to take appropriate action(s) in accordance with law, for any other violations /offences, if any, committed by the applicant Company prior or during the striking off of the Company.



Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

For Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER *CA.No: 70/252/HDB/2017*
निर्णय का तारीख
DATE OF JUDGEMENT *27-10-2017*
प्रति तैयार किया गया तारीख
COPY MADE READY ON *5-12-2017*