

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

CA NO. 109/252/HDB/2016

U/s 252 of the Companies Act, 2013
Under Rule 87A NCLT Rules, 2016

In the matter of:

Mr. Pradeep Theepireddy
(Shareholder of Satya Solutions Private Limited)
Registered Office at, H.No.6-3-853/1, No. 206,
2nd Floor, Meridian Plaza, Ameerpet,
Hyderabad – 500016, Telangana.

... Appellant

Versus

Registrar of Companies, Andhra Pradesh & Telangana
2nd Floor, Corporate Bhawan, GSI Post,
Tattiannaram, Nagole, Bandlaguda,
Hyderabad – 500068, Telangana.

...Respondent



Order Pronounced on: 20.12.2017

CORAM:

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

Hon'ble Sri Ravi Kumar Duraisamy, Member (Technical)

Parties / Counsel present

For the Appellant : Shri Naresh Kumar Sangam

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The Present Company Application bearing CA. No. 109/252/HDB/2017, is filed by Satya Solutions Private Limited under section 252 of the Companies Act, 2013, read with Rule 87A

of the NCLT Rules, 2016 by inter-alia, seeking the following reliefs:

- (a) Direct the Respondent to restore the name of the Company in register of Companies under Section 252(3) of the Companies Act, 2013.
- (b) Direct the Appellant to deliver a copy of the order of this Hon'ble National Company Law Tribunal within thirty days from the date of receipt of the order as required under rule 87A (3)(a).
- (c) Direct the Respondent to publish the order of this Hon'ble National Company Law Tribunal in the official Gazette as required under rule 87A (3)(b).
- (d) The Hon'ble National Company Law Tribunal may fix costs to be paid to the Registrar of Companies (Respondent) towards the expenses incurred by him.
- (e) Grant a time of 60 days from the date of restoration to the Company to file the pending Financial Statements and Annual Returns.
- (f) Any other consequential, incidental or other order(s) as this Hon'ble Tribunal may deem fit.



2. **Brief facts mentioned in Application:**

- i. The Appellant Company was incorporated in Hyderabad on 28.04.2011. The Authorized share capital of the Company is Rs.10,00,000/- (Rupees Ten Lakhs only) divided into 1,00,000/- (One Lakh) equity shares of Rs.10/- (Rupees Ten Only) each. The current issued, subscribed and paid up capital of the company is Rs.10,00,000/- (Rupees Ten Lakhs only) divided into 1,00,000/- (One Lakh) equity shares of Rs.10/- (Rupees Ten Only) each.

- ii. The main objects for which the company was incorporated, as given in the Memorandum of Association are as under:

To carry on the business of designers, manufacturers, producers, fabricators, assemblers, importers, exporters, buyers, sellers, dealers, stockist. Suppliers, wholesalers, retailers, jobbers, contractors, repairers and hirers of all kinds of electrical and non-electrical home appliances and apparatus such as fans, exhaust fan, cooler fan, fresh air fan, airy fans, kitchen fans, table, ceiling and pedestal fan, heat connector, shearing and knitting machines, pressure cooker, lighting equipment, fans, electric kilowatt, hour meters, switches and motor of all types drill, electric grinders and domestic appliances, air conditioners, refrigerators, Freezers, Dishwashers, Cook tops, Microwave Ovens, room and desert coolers, iron presses, geysers, mixers, toasters, water filters, washing machines and Dryers, carborators and other similar equipment and components thereof. Etc.



- iii. It is submitted that Appellant Company has filed its Annual Return and Financial Statements till the Financial Year ended 31.03.2014.
- iv. It is submitted that when the Appellant Company tried to file the Annual Returns and Financial Statements for the Financial Years 2014-2015 and 2015-2016 it is found that the Respondent i.e., Registrar of Companies has strike off the Company.
- v. It is submitted that the Company was incorporated on 28.04.2011 and the provisions of Section 248 of the Companies Act, 2013 have been notified on 26.12.2016 hence the clause (a) of sub-section (1) of Section 248 shall not apply. It is further submitted that the powers under clause (c) of sub-section (1) of Section 248 can be invoked by the Respondent only when it reasonably believes that the

Company is not carrying on business or operation for a period of two immediately preceding financial years. In the present case the Company has filed Financial Statements till the year ended 31.03.2014. The said Financial Statements filed for year ended 31.03.2014 clearly shows that the Company is carrying on the business and operations.

vi. It is further submitted that the Company has held its Annual General Meeting for the year ended 31.03.2016 on 30.09.2016 and as per the provisions of Section 92 read with Section 403 of the Companies Act, 2013 the Company is required to file its Annual Return within 60 days from the date of Annual General Meeting without penalty and within further 270 days with penalty.

vii. It is submitted that the Respondent has invoked Section 248 of the Companies Act, 2013 and strike off the name of the Company from the Register of Companies before the final date for filing the Financial Statements for the Financial Year ended 31.03.2016 (i.e., 26.07.2017).

viii. It is submitted that the Company is regular in filing the Financial Statements with the Income Tax Department. From the Financial Statement for the year ended 31.03.2016 it is amply clear that revenues from the operations of the Company for the Financial Year ended 31.03.2015 stands at Rs.54,16,74,352/- (Rupees Fifty Four Crores Sixteen Lakhs Seventy Four Thousand Three Hundred and Fifty Two only) and the for the Financial Year ended 31.03.2016 the turnover from the operations of the Company stands at Rs.83,15,12,967/- (Rupees Eighty Three Crores Fifteen Lakhs Twelve Thousand Nine Hundred and Sixty Seven only). This clearly shows that the Company is carrying on its business and operations.



ix. It is submitted that the Company has more than 120 employees and the strike off of the name of the Company from the Register of Companies will not only prejudice the interest of the shareholder and will also prejudice the interest of the employees of the Company.

x. The Appellant Company passed Board Resolution dated 18.08.2017 to make an application for restoration of name before Hon'ble National Company Law Tribunal (NCLT) and authorised Director of the Company to take necessary steps in this regard.

3. The case was first listed on 09.10.2017, the Ld. Counsel for Appellant Company Mr. P. Anil Mukherjee (For Naresh Kumar Sangam) was heard. The Ld. Counsel for Appellants submitted that they would comply with the objections raised by the Registry and requested time. The case was further posted on 16.10.2017.
4. On 06.10.2017, Ld. Counsel for Appellant Mr. Naresh Kumar Sangam was heard and case was posted on 06.11.2017.
5. The Appellant Company on 23.10.2017 filed an undertaking to file the Returns and Documents with the Registrar of Companies within the time prescribed and confirming the future compliance of the provisions of the Companies Act, 2013 within the stipulated time period.
6. ROC vide its letter No: ROCH/LEGAL/SEC252/74147/SS-/STACK/2017 dated 03.11.2017 has filed its Report stating that:
 - a. The Company did not file the Annual Accounts and Returns for consecutively for two (2014-2015 and 2015-2016) Financial Years. Hence the Company was identified for Strike off under Section 248(1) and 248(1) notice was issued and also STK-5 notice dated 05.05.2017 was issued and published in the



Gazette and there after Company was marked Strike off in MCA portal. Company has submitted a reply to our 248 notice, hence this office has not taken further steps to issue STK-7 final notice under Section 248(5) of Companies Act, 2013 for strike off.

- b. It is submitted that the Appellant Company is regular in filing the Financial Statements with the Income Tax Department and it is clear that Appellant Company is carrying on its business and operations.
- c. It is submitted that Hon'ble Bench may direct the Petitioner to file all the pending returns, namely annual returns/ Balance Sheet with fees and additional fees as prescribed under the Provisions of the Companies Act, 2013.



- 7. Heard Mr. Naresh Kumar Sangam the Ld. Counsel for Appellant. We have carefully perused all the material documents, submissions and ROC Report and we are of the considered view that it would be just and proper to order restoration of the name of the Appellant Company in the Register of Registrar of Companies.
- 8. With regard to the contention of the Counsel as stated in pre para 2 (iv) (v) & (vi), we are of the view that though the Company is carrying on business/ in operation as per Section 248 of the Companies Act, 2013, in the absence of filing of Statutory Returns/ Annual Returns/ Balance Sheet with ROC, the ROC was correct in identifying the Appellant Company for Striking off the name of the Appellant Company under Section 248 of the Companies Act, 2013. ROC has also issued Gazette Publication, therefore the plea/ contention of the Appellant that the Company tried to file the Annual Returns for the years 2014- 2015 and 2015- 2016, it is found that the Company's name was struck off by the ROC is not tenable/ not acceptable/ without any merit or basis.

9. However, considering the fact that the Appellant Company has been generating substantial revenue for the Financial Year 2014-15 and 2015-16 as stated supra, the Appeal bearing CA No.109/252/HDB/2017 is allowed with the following directions:

- a. File all the pending returns i.e. Annual Return and Balance Sheet for the financial years 2014-2015 and 2015-2016 with completion of all formalities including payment of late fee or any other charges which can be levied by the Respondent for the late deposit of statutory documents.
- b. Payment of cost of Rs. 50,000/- (Fifty Thousand) by way of Demand Draft to "Pay & Account's officer, Ministry of Corporate Affairs, Chennai" within 2 weeks from the date of receipt of copy of this Order.
- c. The Appellant Company shall file an affidavit confirming Non receipt/ deposit of any huge amount of cash in violation of Income Tax Act/Rules, or any other Applicable Banking Rules and Regulations, post Demonetisation.
- d. The name of the Appellant Company shall, stand restored to the Register of ROC as if the name of the Company had not been struck off in accordance with Section 252 of the Companies Act, 2013.
- e. The Appellant to submit a copy of this order to ROC within 30 days from date of receipt of copy of this order.
- f. Liberty is granted to the ROC to proceed with penal action against the Appellant, if so advised, on account of the Appellant's alleged defaults in compliance with any other provisions of the Companies Act, 2013.



प्रमाणित प्रति

CERTIFIED TRUE COPY

संख्या
CASE NUMBER: CA. 109/252/HDB/2017
वर्णन का तारीख
DATE OF JUDGEMENT: 20.12.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON: 20.12.2017

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

sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)