

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

C.A.No.107/252/HDB/2017
U/s 252 of the Companies Act, 2013.

In the matter of

Sri Raghunath Resorts & Hospitality
India Private Limited
Flat No.402, R.R.V. Flats,
Yousufguda Check Post,
Hyderabad 500 033, Telangana
Rep. by its Managing Director
Shri Battagiri Venkata Reddy

...Appellant

Versus

Registrar of Companies,
Andhra Pradesh and Telangana,
2nd Floor, Corporate Bhawan,
GSI Post, Tattiannaram,
Nagole, Bandlaguda,
Hyderabad- 500 068, Telangana.

....Respondent

Date of Order: 09.11.2017.

CORAM:

Hon'ble Mr. Rajeswara Rao Vittalana, Member (Judicial)
Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present:

For the Appellant : Shri Darga Mabu Basha, PCS

For Respondent : None appeared

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The present Company Application bearing C.A.No.107/252/HDB/2017 is filed by Shri Battagiri Venkata Reddy, Managing Director of the Appellant Company under Section 252(1) of the Companies Act, 2013 r/w NCLT Rules, 2016 r/w Rule 87A of the NCLT (Amendment) Rules, 2017 on

09.11.2017 by interalia seeking following reliefs from Tribunal:

- a) to direct the Respondent to forthwith rescind, cancel and / or set aside the order of striking off the name of the Company from the Register of Companies.
- b) to direct the Respondent to forthwith restore the name of the Company in the Register of Companies and to effect the restoration in the official website maintained by the Ministry of Corporate Affairs, Government of India;
- c) to allow filing of Audited Balance Sheets, Annual Returns and other documents for the Financial Years 2014-15 and 2015-16 onwards with the Respondent and
- d) to pass such other order or order(s) be made and / or direction or directions be given as to this Hon'ble Tribunal may deem fit and proper.

2. Facts of the case :

- a) Sri Raghunath Resorts and Hospitality India Private Limited (herein referred to as the Appellant) was originally incorporated under the name and style of "Ramven Resorts Private Limited" on 08.07.1997 in the State of Andhra Pradesh. Subsequently, Company had changed its name to "Sri Raghunath Resorts & Hospitality India Private Limited" on 23.10.2000 and again company has changed its status from Private to Public as "Sri Raghunath Resorts & Hospitality India Limited" on 02.11.2000. Finally, the Company has changed its status from Public to Private as "Sri Raghunath Resorts & Hospitality India Private Limited" on 03.08.2009 vide Fresh Certificate of Incorporation upon conversion of status of the company, issued by RoC, Andhra Pradesh and having its registered office as shown in the cause title.



- b) The Company has been carrying the business of running resorts and also carrying on the business of developers and builders and other related activities in line with main objects of Company.
3. The Authorised Share Capital of the Appellant is Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) divided into 15,00,000 (Fifteen Lakhs) Equity Shares of Rs.10/- (Rupees Ten) each. The Issued, Subscribed and Paid-up Share Capital of the Appellant is Rs.1,45,87,380/- (Rupees One Crore Forty Five Lakhs Eighty Seven Thousand Three Hundred and Eighty only) divided into 14,58,738 (Fourteen Lakhs Fifty Eight Thousand Seven Hundred and Thirty Eight) Equity Shares of Rs.10/- (Rupees Ten) each.
4. The RoC, Andhra Pradesh & Telangana has issued Notice No. ROCH/248(1)/Removal/27489/2017 dated 27.03.2017 in Form No.STK-1 for removal of name of the Company from the Register of Companies for the reason “the company has failed to commence its business within one year of its incorporation” or “the Company is not carrying on any business for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of dormant company u/s 455.
5. The Appellant intimated to the RoC, Andhra Pradesh & Telangana vide letter dated 10.05.2017 that the company is carrying on the business and it is in the process of filing pending Annual Returns with the RoC and requested not to initiate any steps to remove the name of the company from Register of Companies.
6. The Appellant came to know about the name of the company was struck off by the RoC only when the Annual Returns are trying to file, hence, could not be filed.



7. The Appellant Company got engaged one consultant to look after the matter of filing of Tax Returns with IT Department and Annual Financial Statements / Returns with RoC, the company is under impression that consultant was filed and the company knows only after receipt of notice u/s 248 of the Companies Act, 2013 from RoC.
8. The Company has filed its Annual Returns with I.T Department for the Financial Year 2014-15 and 2015-16 but could not file the Financial Statements with RoC.
9. The Appellant Company submitted that the revenue from operations for the immediately preceding last Three Financial Years as per the Audited Balance Sheets of the Company is Rs.140,80,500/- as at 31.03.2014, Rs.186,95,600/- as at 31.03.2015 and Rs.35,81,000/- as at 31.03.2016. The company is regular in filing the Income Tax Returns with the IT Department.
10. The Company held its AGMs for the Financial Years 31.03.2015 and 31.03.2016 on 30.09.2015 and on 27.09.2016 respectively. The Company has filed the Income Tax Returns with the Income Tax Department regularly.
11. The Appellant shall be able to complete filing of Annual Accounts and the Annual Returns in respect of the Financial Years 2014-15 and 2015-16 which are due to be filed upon granting of the prayers as prayed in the Application.
12. Further stated that the Appellant Company got sufficient reserves and surplus, sundry creditors in addition to inventories and cash and cash equivalents and the Appellant Company is not a sick company and being a company with substantial assets and inventories it needs to be revived.
13. Heard Shri Darga Mabu Basha, Learned PCS for the Appellant. Though the Learned PCS raised several objections like notices were not properly addressed, paper publication was not made against the Appellant Company in leading



with the Income Tax Department regularly, and the Annual Returns for the Financial year 2012-13, and he prepared to submit all the Annual Accounts and the annual Returns pertaining to the two Financial Years 2014-15 and 2015-16 within the time stipulated by the Tribunal and also pay the required Compounding Fee / Additional fee in accordance with the Rules.

14. RoC submitted its Report dated 14.10.2017 stating that Hon'ble Bench may direct the Appellant 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 and the Appellant may also be directed to ensure statutory compliance of applicable provisions of the Companies Act, 2013 without any delay in future.

15. In view of the above submissions, Report of RoC, the Company is in operation and has been generating revenue from operations as stated supra, undertaking given by the Company, the Company Application bearing C.A.No.107/252/HDB/2017 is allowed subject to:

- a. Filing of all pending returns i.e. the Audited Balance Sheets and Annual Returns for Financial Years of 2014-15 and 2015-16 shall be filed within 4 weeks of date of receipt copy of this order.
- b. The Appellant is directed to file all the returns due together with Fees and Additional fees and also ensure statutory compliance of applicable provisions of the Companies Act, 2013 and rules framed therein within the stipulated time.
- c. The Appellant Company to file an Affidavit with an assurance that the Company would follow the provisions of the Company Act, 2013 and rules framed therein within the stipulated time.





- d. The Appellant to submit a copy of this order to RoC, within 2 weeks from the date of receipt of this Order.
- e. The Appellant Company is directed to pay a sum of Rs.50,000/- towards cost to be payable by way of DD in favour of "Pay & Accounts Officer, Ministry of Corporate Affairs, Chennai" within 2 weeks from the date of receipt of this Order.
- f. 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.
- g. 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.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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

प्रमाणित प्रती
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER *C.A.No.107/252/HDB/2017*
निर्णय का तारीख
DATE OF JUDGEMENT *9-11-2017*
प्रति तैयार किया गया तारीख
COPY MADE READY ON *23-1-2018*