
(2020) 12 NCLT CK 0105

In the National Company Law Tribunal

Case No : Company Petition No. 1278/252(3)/MB-IV Of 2020

Awersa Engicon (India) Private Limited

APPELLANT

Vs

RoC, Pune

RESPONDENT

Date of Decision : 08-12-2020

Acts Referred:

Companies Act, 2013 — Section 248(1), 248(4)(1), 252, 252(3)
Companies (Removal Of Names Of Companies From The Register Of Companies)
Rules, 2016 — Rule 3

Citation : (2020) 12 NCLT CK 0105

Hon'ble Judges : Suchitra Kanuparthi, J;Rajesh Sharma, Member (Technical)

Bench : Division Bench

Final Decision : Allowed

Judgement

The Court is convened through Video Conference.

1. This court convened through video conferencing today. Mr. Sandeep Kulkarni, Practising Company Secretary appeared on behalf of the Company.

2. This Company Petition is filed by Mr. Ashok Achutha Rao on behalf of Awersa Engicon (India) Private Limited CIN : U29219PN2012PTC142449,

under section 252 (3) of the Companies Act, 2013 praying for restoration of the name of the Company to the Register of Companies maintained by the

Registrar of Companies, Pune.

3. The Petitioner submits that the company was incorporated on 02.03.2012 under the Companies Act, 1956 as a private company limited by shares

with the Registrar of Companies, Maharashtra, Pune.

4. The grievance of the Petitioner Company is that the Respondent Registrar of Companies, Maharashtra, Pune struck off the name of the Petitioner

Company from the Register of Companies maintained by them by issuing notice

in Form STK-1, STK-5 and STK-7 under section 248(4)(1) for removal of the name of the Company from the Register of Companies under section 248(1) of the Companies Act, 2013 and rule 3 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 due to defaults in statutory compliances, namely, failure to file Financial Statements and Annual Returns and failure to do business for two years.

5. The Petitioner Company submits that the Company has been functioning since its incorporation. The Petitioner Company further submits that the Company has failed to file its Financial Statements and Annual Returns for Financial Years 2016-17, 2017-18 and 2018-19, which is for a period of three (3) years, due to inadvertence.

6. The Petitioner Company has enclosed the Audited Accounts for the Financial Years ended at 31.03.2017, 31.03.2018 and 31.03.2019. The Petitioner Company has also enclosed copies of the Acknowledgement of Income-Tax Returns filed with the Income-Tax Authorities for the Years from 2017-18, 2018-19 and 2019-20.

7. The Respondent has filed his report and reiterates that the name of the Company was struck off, as the company was not carrying on any business or operation for a period of immediately preceding two years.

8. On hearing the submissions of the Learned Authorised Representative appearing on behalf of Petitioner and on perusal of the Report of Registrar of Companies, Maharashtra, Pune, the Audited Accounts submitted by the Petitioner Company and other documents placed on record, the Bench observes that it would be just, equitable and in the interest of justice to provide an opportunity to the company to rectify its defaults and continue the business.

9. Given the above facts and circumstances, we are satisfied that the prayer sought by the Petitioner company deserves to be allowed.

10. Accordingly, Company Petition bearing CP No.: 1278/252(3)/MB- IV/2020 filed by the Petitioner, Awersa Engicon (India) Private Limited, represented by its Applicant Mr. Ashok Achutha Rao, under section 252 of the Companies Act, 2013, seeking restoration of the Company's name in the Register of Companies maintained by the Registrar of Companies, Maharashtra, Pune is allowed on the following terms: -

(a) The Respondent Registrar of Companies, Maharashtra, Pune, is directed to restore the name of the Petitioner Company, viz. Awersa Engicon

(India) Private Limited, to the Register of Companies subject to payment of a sum of Rs.40,000/- (Rupees Forty Thousand only) as cost to be paid

online through Bharat Kosh in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai within thirty days from the

date of receipt of a copy of this Order; and

(b) Upon such restoration, the Petitioner Company shall file all its pending financial statements and Annual Returns with all the applicable fees and late

fees with the Respondent Registrar of Companies within thirty days from the date on which the name of the Company is restored to the Register;

failing which, this order will stand vacated automatically.

11. Upon restoration of the name of the Petitioner Company to the Register of Companies after complying with the terms mentioned above, the

Registrar of Companies, Maharashtra, Pune, shall issue appropriate communications to the bank authorities for defreezing the accounts of the

Petitioner Company.