

(2020) 12 NCLT CK 0152

In the National Company Law Tribunal

Case No : Company Petition No. 1146/252(3)/MB-IV Of 2020

Kamalshakti (India) Consultancy And Infrastructure
Developers Pvt. Ltd.

APPELLANT

Vs

ROC, Pune

RESPONDENT

Date of Decision : 07-12-2020

Acts Referred:

Companies (Removal Of Names Of Companies From The Register Of Companies)
Rules, 2016 — Rule 3
Companies Act, 2013 — Section 248(1), 248(5), 252(3), 455

Citation : (2020) 12 NCLT CK 0152

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

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This court convened through video conferencing today. Mr. Sanjay Kishor Dingare, Practising Company Secretary appeared on behalf of Petitioner

Company

2. This Company Petition is filed by Kamalshakti (India) Consultancy and Infrastructure Developers Private Limited [CIN:

U74900PN2015PTC153720], represented by its Director Mrs. Archana Gajanan Joshi [DIN: 07005548], 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 14.01.2015 under the Companies Act, 1956 as a private company limited by shares

with the Registrar of Companies, Maharashtra, Pune. Its CIN is U74900PN2015PTC153720. The Petitioner company has been incorporated to carry

on the following objects:

â??To carry on in India or elsewhere the business in Indian perspective to undertake various projects on demand to the professional in

practice and to act as an consultant, advisor, representative in its branches such as legal, commercial, industrial, production, engineering,

personnel, marketing, advertising, publicity, sales, etc.â??

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 dated 17.07.2019 under section 248(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 2015-16 to 2018-19 i.e. since incorporation and for not carrying on any business or operation for a period of

immediately preceding two years and neither made any application within such period for obtaining the status of â??Dormant Companyâ?? under

section 455 of the Companies Act, 2013.

5. Consequently, the Respondent ROC initiated the process under section 248(5) of the Companies Act, 2013 by issuing Public Notice in Form STK-7

Public Notice dated 25.10.2019 and informed the Petitioner Company that the name of the Company has been struck off from the Register of

Companies and the Company has been dissolved.

6. The Petitioner Company further submits that due to striking off the name of the Petitioner Company, the Director Identification Numbers (DIN) of

the directors of the Company have been deactivated.

7. 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 Year 2015-16 to 2018-19 i.e. since incorporation due to

inadvertence.

8. The Petitioner Company has enclosed the Audited Accounts for the Financial years 2015-16 to 2018-19. The Petitioner Company has also enclosed

copies of the Acknowledgement of Income-Tax Returns filed with the Income-Tax Authorities for the Assessment Year 2019-20.

9. The Petitioner Company submits that the Company has entered into a Registered Land Development Agreement with various true land owners

with the office of the Sub-Registrar, Pandharpur, Tehshil.

10. The grievance of the Petitioner Company is that the Petitioner Company has replied to the notice dated 17.07.2019 of Registrar of Companies,

Pune vide its letter dated 20.08.2019 to grant time period till 31.10.2019 and assured to file all the pending Annual Returns and Financial Statements

along with all documents till above mentioned date. However, instead of reply given by the Petitioner Company the Registrar of Companies, Pune has

struck off the name of the Company from the Register of Companies.

11. On perusal of the report of the Respondent, it appears that the name of the company was struck off due to failure on the part of the company to

file the statutory documents for Financial Year 2015-16 to 2018-19 i.e. since incorporation, and also for not carrying on the business.

12. Upon perusal of the Financial Statements of the Company, it is observed that the Petitioner Company has not generated Revenue at all. However,

has incurred Total Expenses of Rs.91,191.00, has Tangible Assets of Rs.75,407.00 and total Current Assets of Rs.3,13,993.00 for F.Y. 2017-18.

Further, the Petitioner Company has incurred Total Expenses of Rs.91,887.00, has Tangible Assets of Rs.50,067.00 and total Current Assets of

Rs.2,52,946.00 for F.Y. 2018-19. It is also observed that the Petitioner Company has Short Term Borrowings of Rs.1,84,350.00 and Rs.1,90,350 for

F.Y. 2017- 18 and 2018-19 respectively.

13. 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 the Petitioner Company is not running its business/operations. However, the Petitioner Company has Tangible Assets, Current Assets

and Short Term Borrowings in its Books of Accounts. It is also observed that the Company has entered into a Registered Land Development

Agreement with various true land owners with the office of the Sub- Registrar, Pandharpur, Tehshil. Therefore, 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.

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

15. Accordingly, Company Petition bearing CP No. 1146/252(3)/MB- IV/2020 filed by the Petitioner, Kamalshakti (India) Consultancy and

Infrastructure Developers Private Limited [CIN: U74900PN2015PTC153720], represented by its Director Mrs. Archana Gajanan Joshi [DIN:

07005548], under section 252(3) 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., Kamalshakti (India)

Consultancy and Infrastructure Developers Private Limited [CIN: U74900PN2015PTC153720] to the Register of Companies subject to payment of a

sum of Rs.50,000/- (Rupees fifty 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.

16. 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.