

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 30.09.2022 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
Company Appeal/8/252/AMR/2022		252	Venati Kalpana Vs. Havin Homes Realty & Consulting Services Private Limited & ROC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Company Appeal/8/252/AMR/2022 is allowed, vide separate orders.

SD/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

**THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

CA No. 8/252/AMR/2022

**Under Section 252(1) of the Companies Act, 2013
Read with 87A National Company Law Tribunal (Amendment)
Rules, 2017**

In the Matter of

**M/s. HAVIN HOMES REALTY & CONSULTING SERVICES
PRIVATE LIMITED**

BETWEEN:

Venati Kalpana,
W/o. Rakesh Kamireddy,
Aged about 30 years,
R/o.N.M. Kandriga, Mambattu Tada,
Nellore - 524401.

... Applicant

Versus

1. Havin Homes Realty & Consulting Services Private Limited,
Registered office at N.M. Kandriga, Mambattu Tada,
Nellore – 524401.

... Respondent No.1

2. The Registrar of Companies, Vijayawada,
29-7-33, 1st Floor, Vishnuvardhanarao Street,
Suryaraopet, Vijayawada,
Andhra Pradesh-520002.

... Respondent No.2

Date of pronouncement of orders: 30.09.2022

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Applicant : Ms. U.K.Gayathri, Advocate.
For Respondent (RoC) : None

ORDER

1. This is an application under Section 252(1) of the Companies Act, 2013 (herein after called the Act) filed by Promoter cum Shareholder (Applicant herein) of “**M/s. Havin Homes Realty & Consulting Services Private Limited**” (herein after referred to as the “Company”) seeking restoration of its name in the Register of Companies (RoC), Vijayawada for the State of Andhra Pradesh.
2. The Company was incorporated in July, 2017 under the Companies Act, 2013 in the erstwhile State of Andhra Pradesh. The Registered Office of the Company is situated at Nellore, Andhra Pradesh - 524401. Applicant/ Promoter Cum Shareholder of the Company/Respondent No.1 has filed this Application.
3. It is stated by the Applicant that the Authorised Share Capital of the Company is Rs.2,00,000 /- (Rupees Two Lakhs only) divided into 20,000 each equity share @ Rs.10/- Each. The Issued, Subscribed and Paid-up Share capital of the Company is Rs.2,00,000/- (Rupees

Two Lakh only) divided into 20,000 equity shares and each share @ Rs.10/-.

4. The main objects of the Company are to carry on the business of property consulting and online marketing of properties which includes residential rentals, apartment/land sales, project marketing and to provide consultancy services of any movable or immovable property including industrial, commercial, residential or farmlands, plots, buildings, houses, apartments.
5. The Company filed Annual Returns for the FY 2019-2020 & 2021-2022 and Financial Statements for the FY 2017-2018, 2018-2019, 2019-2020 & 2020-2021, but due to technical issues in the website of incometax.gov.in, the Company has not filed its Annual Returns pertaining to FY 2019-2020. It is stated that the Registrar of Companies, Andhra Pradesh, issued a notice in Form No. STK.1 proposing to remove the name of the Company from the Register of Companies and to dissolve the Company on the grounds as mentioned in the said notice and the same was posted on the website of Ministry of Corporate affairs. Consequently, in the absence of any reply or cause being shown, the ROC vide its order i.e. Notice of Striking Off and Dissolution in form No., STK-5 & 7 dated 28.01.2022, 31.03.2022 respectively, removed the name of the Company from the Registrar of Companies and marked the Company as struck-off on the MCA portal.

6. The Applicant is taking steps to regularize all the statutory filings and undertakes to be regular in complying with the relevant provisions of the Companies Act.
7. The Applicant submitted copies of audited Financial Statements, Balance Sheets, Profit and Loss for the financial years 2017-2018, 2018-2019, 2019-2020 & 2020-2021 in order to prove that the Company is in existence and running.
8. The Applicant has submitted Affidavit stating that the Company has not deposited or received any cash during the period of demonetization and submitted bank statement from 01.10.2019 to 30.06.2022.
9. The Applicant requested that the Directors and all other persons may be ordered to be placed in the same position as nearly as possible as they were prior to the name of the Company being struck off from the Register of Companies.
10. The RoC, Andhra Pradesh, Vijayawada the Respondent herein, has filed a report vide Report No. ROCV/Reports/106194/Sec252/AMR/2022/1877, dated 05.09.2022, wherein the details of the Company such as date of incorporation, address of the registered office and its main objects as per Memorandum of Association are mentioned. The RoC in its report stated that the Company has not filed annual accounts and annual returns since from its incorporation, hence the Company was

identified for Strike off and 248 (1) notice was issued to the Company and its Directors and STK-5 notice dated 28.01.2022 was published in the Gazette and a paper publication is also given, informing all the stakeholders and uploaded in the MCA website. Thereafter the Company was marked for Strike off in MCA Portal and STK-7 notice was also published in the Gazette dated 31.03.2022. While submitting the above facts, the RoC has stated that their Office has no objection for considering the present application for restoration of the name of Company back to the Register of Companies u/s 252 of the Companies Act, 2013 read with rule 87(A) of the NCLT Rule 2016 and that the application may be considered on merits and appellant may be directed to ensure statutory compliance of applicable provisions of the Companies Act, 2013 without any further delay and to file balance sheet and annual returns which are due as on date, within 30 days from the date of change of company status from strike off to active and to direct the appellant to file INC-28 along with a certified copy of the order of NCLT with Registrar of Companies within 30 days from the date of the order and also to file a declaration from Directors of the Company regarding deposits of cash in bank during the demonetization period. The RoC sought this Tribunal to direct the applicant to file all pending Financial Statements and Annual Returns and direct the Applicant to file a declaration from directors of the Company regarding deposits of cash in banks during the demonetization period and to pass orders imposing costs.

11. I perused the records. The material available on record indicates that the failure of the Company to furnish the statutory returns with the RoC was not intentional. Apparently the Company has been carrying on its operations as the financial statements would indicate. Unless the Company's name is restored, it will prejudicially affect its prospects and adversely influence the Directors in their future endeavours. The Shareholders of the Company as well as the Applicant are keen to carry on and perform the objects of the Company in right earnest. There have been substantial investments in the project. The Company is continuing its business. Unless the name of the Company is restored in the Register of Companies, it would suffer financially and may go out of business. The directors of the company would also face disqualification. I am convinced that the name of the Company should be restored in the Register of Companies. Hence ordered.

ORDER

In the result, the Application is allowed. The impugned order dated 31.03.2022 issued by the RoC, Vijayawada against the Company is set aside. The name of the Respondent Company be restored in the Register of Companies, Andhra Pradesh, subject to the following.

- i. The Applicant shall within two months hence file all the pending Financial Statements and Annual and Statutory returns with the

RoC, Andhra Pradesh as required under the Act and Rules made thereunder.

- ii. The Appellant shall deliver a certified copy of the order to the Registrar of Companies, Andhra Pradesh within 30 days and the restoration of the Company's name is also subject to the payment of cost of **Rs.75,000/-(Rupees Seventy Five Thousand only)** through online payment in www.mca.gov.in under **miscellaneous fee** by mentioning particulars as **"payment of cost for revival of company pursuant to orders of Hon'ble NCLT in Company Appeal No.08/252/AMR/2022** within 10 days from the date of receipt of copy of this order. Consequently thereupon the Bank Accounts if freezed shall get defreezed and kept open for operation by the Company.
- iii. Upon compliance, the RoC, Andhra Pradesh on receipt of the Order shall in his official name and stamp, publish the order in the Official Gazette and restore the name of the Company in the Register of Companies forthwith.
- iv. The status of the Directors shall be restored to same position as nearly as may be as if the name of the Company had not been struck off from the Register of Companies. The DIN of the Directors, if disqualified under section 164 (2) of the Act, shall accordingly be restored.

- v. The Order however shall not fetter the authority of the RoC to take appropriate action against the Company for any other violation either prior to 31.03.2022 or in the interregnum.
- vi. Failure to comply with any of the above conditions would nullify the effect of this order.

Sd/-

JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu