



**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA
("THE TRIBUNAL")**

CASE NUMBER: CT019NOV2016

In the matter of:

JJ STEEL CONSTRUCTION CC

APPLICANT

and

JJ STEEL CONSTRUCTION (PTY) LTD

RESPONDENT

Coram: PJ Veldhuizen

Order delivered: 21 February 2017

DECISION & REASONS

A. INTRODUCTION

1. THE PARTIES

- 1.1. The Applicant is **JJ STEEL CONSTRUCTION CC** ("the Applicant"), a close corporation duly incorporated in terms of the laws of the Republic of South Africa with registration number 2007/199868/23.

- 1.2. The Respondent is **JJ STEEL CONSTRUCTION (PTY) LTD**, (“the Respondent”) a private company duly incorporated in terms of the laws of the Republic of South Africa with registration number 2016/146351/07.

B. THE APPLICATION

2. This is an application where the Applicant seeks the de-registration of the Respondent on the grounds that the continued registration of the Respondent poses a risk to the Applicant’s:
 - 2.1. Reputation;
 - 2.2. Opportunities and marketing strategies;
 - 2.3. Intellectual property, etc.
3. While the Applicant may have meant to bring this Application in terms of section 160(3)(b)(ii) of the Companies Act No. 71 of 2008 (“the Act”), read with sections 11(2) of the Act, this cannot simply be presumed.
4. The Applicant is required to indicate on the Form CTR145 the section of the Act relied upon for the relief sought. The relevant requirement reads “insert the section of the Act, or the Regulation, that provides for the order or relief sought”.
5. The Applicant has failed and / or neglected to complete this section of the form.

6. Furthermore, the Applicant is required on the same form and on Form CTR 145 to indicate the relief sought. The relevant requirement reads “insert the relief or order sought. As foreshadowed above, the Applicant has simply inserted the words “De-register (Enterprise 2016/146351/07) in this section of both Form CTR 142 and CTR 145.
7. The Tribunal does not have the power to de-register companies. In the premises, and the basis of the papers filed and the relief sought the Tribunal lacks jurisdiction to hear the matter and grant the relief sought.
8. In any event, the Applicant is required to serve a copy of the Application on the Respondent and satisfy the Tribunal that it has complied with the requirement. Even if the Tribunal were to accept that the Applicant was to be taken to be referring to the sections of the Act referred to in 3 above, the Tribunal is not satisfied that proof of service of the Application has been provided. The Applicant has simply made an allegation that the Respondent was notified of the Application and has annexed a copy of a post office invoice to its papers. Nothing can be gleaned from the invoice that service has indeed been effected.

C. DECISION

9. Having reviewed the papers filed and the relevant legislation, I am not satisfied that the Applicant is entitled to the relief sought and accordingly the Application is refused.



PJ VELDHUIZEN

MEMBER OF THE COMPANIES TRIBUNAL

CAPE TOWN