

IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA, PRETORIA

CASE NO: CT008JUN2015

In the matter between:

VESUVIUS CRUCIBLE COMPANY

Applicant

And

VESUVIUS TECHNOLOGY (PTY) LTD

Respondent

Coram: Kganyago M.F

Decision handed down on the 22nd January 2016

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### DECISION

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- [1] The applicant has brought an application in terms of section 160 read together with 11(2) of the Companies Act 71 of 2008 ("the Act"). The applicant is seeking an order that the respondent be ordered to amend its name to a name not incorporating VESUVIUS and to file a new memorandum of incorporation to that effect.
- [2] The applicant's form 142 was filed with the Tribunal on the 09th June 2015, and the sheriff attempted to effect service on the 12th June 2015. However, the sheriff could not effect service, as according to the sheriff's return the address given by the applicant could be found. From the papers filed by the applicant, there is no other form of service that the applicant has attempted to use, but merely state that they cannot be penalized for the directors of the Respondent's decision to furnish a false address.
- [3] Despite service not been effected, the applicant is of the view that a proper service of the objection has been effected. The question is where has the service been effected. The return of non service from the sheriff clearly state that

“documents could not be served at that given address.” It does not even state that the documents were affixed at the principal door of the business.

[4] I sympathise with the applicant, but my sympathy will not be a ground to grant them a default order.

[5] Under the circumstances, I am not satisfied with service, and I am therefore not inclined to grant them a default order.

## **ORDER**

In the result I make the following order:-

[6] The applicant's application for a default order is refused.

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**M.F KGANYAGO**

**MEMBER OF THE COMPANIES TRIBUNAL**