



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT008Apr2017

In the matter between:

**Welfit Oddy Industries (Pty) Ltd
(1987/004045/07**

APPLICANT

vs

Companies and Intellectual Property Commission

RESPONDENT

Presiding Member of the Tribunal : Prof PA Delport

Date of Decision : 17 July 2017

DECISION (Reasons and Order)

1. INTRODUCTION

1.1 The applicant applies, according to the CTR 142 for an order to “cancel the compliance notice dated 15 February 2017”.

2. BACKGROUND

2.1 The respondent issued a compliance notice to the applicant (actually apparently to some the directors of the applicant) in terms of s 171 of the Companies Act 71 of 2008 (“Companies Act”).

2.1 The respondent is the Companies and Intellectual Property Commission (“CIPC”)

3. APPLICABLE PROCEDURAL LAW

3.1 The regulations in terms of the Companies Act (GNR 351 of 26 April 2011) (“Companies Act regulations” / “regulation/s”) provide, inter alia, as follows:

“142. Applications to the Tribunal in respect of matters other than complaints.—(1) A person may apply to the Tribunal for an order in respect of any matter contemplated by the Act, or these regulations, by completing and filing with the Tribunal’s recording officer—

- (a) an Application in Form CTR 142; and
- (b) a supporting affidavit setting out the facts on which the application is based.

(2) The applicant must serve a copy of the application and affidavit on each respondent named in the application, within 5 business days after filing it.”

3.2 Nowhere in the papers could I find any evidence that the basic requirements of reg 142 have been complied with. There are papers that may indicate that there has been some form of substantial compliance, but that is not enough. The minimum that the applicant is surely required to do is to comply with the Companies Act and the regulations, or otherwise at least proffer some explanation why it was not done.

3.3 There are, in addition, various other formal and substantive deficiencies in the application.

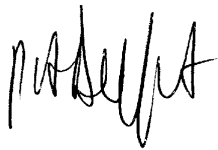
4. FINDINGS

There are valid and cogent reasons why the Companies Act and the regulations prescribe a particular process. I will not allow that process to be ignored at the whim of any party involved.

5. ORDER

The applicant is afforded the opportunity, within 10 business days from the date of the ruling, to submit an amended founding affidavit and to follow the process as prescribed by the Companies Act and the regulations, failing which the matter will be removed from the roll.

SIGNATURE

A handwritten signature in black ink, appearing to read 'PA Delpont', written in a cursive style.

Prof PA Delpont

COMPANIES TRIBUNAL: MEMBER

DATE: 17 July 2017