



SL. No.27

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 04.10.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Appeal/02/252/2024
NAME OF THE COMPANY	
NAME OF THE PETITIONER(S)	Akums Drugs and Pharmaceuticals Ltd
NAME OF THE RESPONDENT(S)	Registrar of Companies, Telangana & Others
UNDER SECTION	252

ORDER

Orders pronounced, recorded vide separate sheets. In the result, this Company Appeal/02/252/2024 is dismissed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, COURT-II**

CA No. 2/252/HDB/2024

*[U/s 252(3) of the Companies Act, 2013
r/w Rule 87A of the NCLT (Amendment) Rules, 2017]*

In the matter of:

**M/s.MBS REMEDIES LIMITED
(CIN: U24232TG2013PLC090096)**

Between:

M/s.Akums Drugs and Pharmaceuticals Limited
304 Mohan Place, LSC Saraswati Vihar,
Delhi – 110034
Through its Authorised Representative
Mr. Shantanu

...Applicant

And

The Registrar of Companies
GSI Post, Tattiannaram, Corporate Bhawan
Bandlaguda, Nagole, Hyderabad
Telangana – 500068

...Respondent No.1

MBS REMEDIES LIMITED
(CIN: U24232TG2013PLC090096)
H.No. 8-3-945, Flat No 601
Srinilaya Estate, Opp. Bata Showroom
Near Image Hospital, Ameerpet
Hyderabad – 500073
Email: ceo@mbsremedies.com
Contact No.40-23732280

...Respondent No.2



BHAVAMANISHANKAR MANDAVA
MANAGING DIRECTOR
7-10-1, Nandigama, Old DSP Office
Krishna (Dist) Andhra Pradesh
Email: mandava.bhavani@gmail.com

...Respondent No.3

MANDAVA PITCHAIAH
DIRECTOR
SSK Towers, Near Krishi College
Nandigama, Andhra Pradesh – 521185

...Respondent No.4

MANDAVA VARA LAKSHI
DIRECTOR
D No. 7-1-1, Old SP Office
Nandigama, Andhra Pradesh – 521185
Email: mandava.bhavani@gmail.com

...Respondent No.5

Date: 04.10.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Applicant : Mr. Santhosh Japtap, Company Secretary
For the R1 : Mr. R.K.Sahu, ICLS, DROC



[PER: BENCH]

ORDER

- I. The instant Company Application No.2/252/HDB/2024 is filed by Mr.Shantanu, Authorised Representative of M/s.Akums Drugs and Pharmaceuticals Limited (**Applicant**), which is the Operational Creditor of M/s.MBS Industries Limited (**Company/2nd Respondent**), under Section 252 of the Companies Act, 2013, inter alia, seeking to set aside the proceedings of the Registrar of Companies (**ROC/1st Respondent**) striking off the name of the **2nd Respondent**, vide Notice No. ROC (H)/248(5)/STK-7/Ph-II/3194/2019, dated 06.03.2019 (**Impugned Order**) and to direct the 1st Respondent to restore the name of the Company on the Register maintained by the Registrar of Companies (**ROC**) in order to collect the outstanding amount of Rs.8,36,484/- from the 2nd Respondent Company.
- II. The gist of the Application, in brief, is as follows -
- a. **M/s.MBS Remedies Limited** was incorporated on 19.09.2013, with CIN:U24232TG2013PLC090096, having its Registered Office at H.No.8-3-945, Flat No.601, Srinilaya Estate, Opp: Bata Show room,



Ameerpet, Hyderabad – 500 073. The Authorised Share Capital of the Company is Rs.25,00,000/- (Rupees Twenty Five Lakhs only) divided into 2,50,000 Equity Shares of Rs.10/- each and the issued, subscribed and paid-up share capital of the Company is Rs.5,00,000/- (Rupees Five Lakhs only) divided into 50,000 Equity Shares of Rs.10/- each.

- b. The main objects of the Company were to carry on in India or elsewhere the business of manufacturer, producer, process, compound, mix, pack, formulate, condense, distill, rectify, sterilize, pasteurise, steam, evaporate, turn to account and to deal in all types of organic inorganic, industrial laboratory, photographic, fine, biological pathological pharmaceutical and other chemicals and to carry on research & development in the areas of drugs, pharmaceuticals and other chemicals.

A copy of the Memorandum and Articles of Association of the Company is filed as Annex-III at pg. no.31 to 81 of the application.

- d. On 25.10.2013, the Applicant and the Company had entered into an agreement for manufacturing of certain pharmaceutical products and R2 placed a Purchase



Order for manufacturing of certain pharmaceutical preparations. The Applicant manufactured the goods as per specifications/description of R2 and requested to lift the goods immediately and pay the outstanding payment amounting to Rs.7,36,484/-, vide email dated 07.08.2014. Reminder emails were also sent to R2 on various dates and regular follow up emails were sent from time to time. When R2 failed to pay the outstanding amount, the Applicant sent a Legal Notice on 03.12.2024 stating to lift the goods within 15 days and make payment of Rs.8,36,484/-. But the Company/R2 neither lifted the goods nor made any reply to the Legal Notice.

- e. Later, on 06.03.2019, due to default in statutory compliances viz. failure to file Financial Statements & Annual Returns since its incorporation, the Registrar of Companies (**ROC/1st Respondent**) issued Notice No. ROC (H)/248(5)/STK-7/Ph-II/3194/2019 (**Impugned Order**) striking off the name of M/s.MBS Remedies Limited (**Company/2nd Respondent**).
- f. Restoration of the Struck off company is requested for the ends of justice.



g. It is also averred that the order notified by the R1 is not only arbitrary, but also against the interest of the creditors of the Company. Hence, the Applicant is requested to set aside the order of R1 and restore the R2 Company.

h. It is averred that the matter filed before this Tribunal is not pending before any Tribunal of Law or any other Authority or any other Tribunal.

i. It is stated that the Application is within the limitation under Section 252(3) r/w Section 433 of the Companies Act, 2013.

III. The Registrar of Companies, Hyderabad/Respondent submitted his Report, vide Letter No. ROCH/DROC/SEC252/090096/MBS/2024/602, dated 11.06.2024 stating as follows:-

1. The Company had defaulted in filing the Financial Statements and Annual Returns for more than two years and hence identified for strike of u/s 248(1) of the Companies Act, 2013. Accordingly, notice under Section 248(1) was issued to the Company and its directors. Further, STK-5 Notice dated 02.11.2018 was issued and the same was published in the Government of India Gazette and in MCA website. Newspaper publication too was made, informing all the stakeholders about the list of companies published in the website. Finally, the Company was struck off and STK-7 Notice dated 06.03.2019



was also published in the Gazette. Hence, cost may be imposed on the Applicant.

2. The Company, M/s.MBS Remedies Limited has defaulted in filing of Annual Returns and Balance Sheets since its incorporation on 19.09.2013.
3. This Company Appeal is filed by M/s.Akums Drugs and Pharmaceuticals Limited, the Operational Creditor of the subject company, M/s. MBS Remedies Limited for the restoration of the name of M/s.MBS Remedies Limited from the status of "Strike off" on the ground that an amount of Rs.8,36,484/- alongwith interest is pending as due from M/s.MBS Remedies Limited to M/s.Akums Drugs and Pharmaceuticals Limited since 2014. The Petitioner has produced copy of Legal Notice dated 03.12.2014 issued to M/s.MBS Remedies Limited. However, the petitioner has not produced any proof of filing of any case/suit for the recovery of the above said amount. Further, the Petitioner has not produced copy of latest audited financial statement of the petitioner company showing the above said dues/debt payable by M/s.MBS Remedies Limited in support thereof.
4. Hence, it is just and necessary to direct the Petitioner/Appellant Company, M/s.Akums Drugs and Pharmaceuticals Limited to submit proof of case/suit filed for the recovery of the above said amount from M/s.MBS Remedies Limited and also to direct the petitioner company to produce certified copy of latest Audited Financial Statement of the Petitioner Company showing the above said dues/debt payable by M/s.MBS Remedies Limited to the Petitioner Company since, no Balance Sheet has been filed by the subject company since its incorporation.

IV. We have heard the Learned Counsel for both the parties and gone through the entire record.



- V. It is the contention of the Applicant that M/s.MBS Remedies Limited failed to pay the outstanding amount, against which, the Applicant had issued a Legal Notice on 03.12.2024 for Rs.8,36,484/-. But the Company/R2 has neither lifted the goods nor made any reply to the legal notice.
- IV. As regards the Report of the RoC, the RoC has objections in considering the application for restoration as mentioned in the Report cited above.
- V. No doubt, the Applicant being the Creditor of the Respondent 2 is entitled to restore the name of the Company but this is not suffice. The Respondent 2 has not appeared and it implies that it does not want to restore the Company.
- VI. The Applicant wants to restore the Company only to claim the amount due to it from the Company. For this, the Applicant can file recovery suit and not to get the Company's name restored. For restoration of the Company, certain statutory requirements are also to be fulfilled i.e. filing of Financial Statements, which cannot be done by the Applicant.



VII. Accordingly, the Company Appeal **2/252/HDB/2024** is **dismissed.**

Sd/-

**SANJAY PURI
MEMBER (TECHNICAL)**

Syamala

Sd/-

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**