

IN THE NATIONAL COMPANY LAW TRIBUNAL

**BENCH-V, NEW DELHI
Appeal No.55/252/ND/2023**

Appeal under section 252(3) of the Companies Act, 2013 read with Rule 87A of the National Company Law Tribunal (Amendment) Rules, 2017

IN THE MATTER OF:

The Companies Act, 2013 (18 of 2013) read with applicable rules

AND

IN THE MATTER OF:

DELHI FINANCIERS PRIVATE LIMITED,
Registered office at: C/O The Narbada Cold
Storage & Ice Factory Kamla Nehru Park, Old
Subzi Mandi, Delhi -110007 in

... APPELLANT

VERSUS

REGISTRAR OF COMPANIES,
Nct of Delhi & Haryana
Ministry of Corporate
Affairs.
Address: 4th Floor, IFCI Tower, 61,
Nehru Place, New Delhi – 110019.

.... DEFENDANT

PRESENT:

For the Appellant : Mr. Gaurav M. Liberhan, Advs.

For the RoC : Ms, Shankari Mishra, Ms. Jyoti Khurana, Adv.

Order Pronounced On: 14.05.2024

CORAM:

**SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)**

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The Present Appeal has been filed by the Company named M/s Delhi Financiers Private Limited, through its Director/Shareholder Anilji Singh (hereinafter referred to as "the Appellant Company") under Section 252 (3) of the Companies Act, 2013 for restoration of name of the company, which was struck off by the Registrar of Companies, NCT of Delhi and Haryana (for brevity "RoC")/ (Respondent) vide Public Notice of Striking Off bearing no. ROC/ DELHI/ 248(1) /STK-7 /6217 dated 29.10.2019.
2. As per the averments M/s Delhi Financiers Private Limited, was incorporated on 27.05.1955 under the provisions of the Companies Act, 1956. The Registered office of the Company was situated at C/O The Narbada Cold Storage & Ice Factory, Kamla Nehru Park, Old Subzi Mandi, Delhi, 110007, India. The Authorized Capital of the company was Rs. 1,25,000/- . The Paid-up Capital of the company was Rs. 1,25,000/-.
3. That as per Memorandum of Association of the Appellant Company, the main objects of the company were as:-

"To lend money and negotiate loans, etc...."

4. The Appellant Company have been two directors namely namely: 1) Mr. Aniljit Singh (DIN: 00296823) and 2) Mrs. Amarjeet Kaur (DIN: 03518930).
5. That the company was incorporated on 27.05.1955 and the last Annual Return and Balance Sheet submitted by the company to the ROC, before it was struck off, pertain to the financial year that ended on 31.03.2016. Moreover, no subsequent documents had been filed by the company with this office to obtain the status of a "Dormant Company" under Section 455 of the Companies Act, 2013. Hence, the ROC had reasonable cause to believe that

the company was not in operation, and therefore, the name of the company was considered for striking off from the Register of Companies.

- 6.** Appellant Company submitted that in the event of revival of the Company and restoration of the name of the Company in the Register maintained by The Defendant Party, the Appellant Company shall file all outstanding statutory documents i.e. the financial statement & annual returns for the financial year from 2016-17, 2017-18 and 2018-19 and so on... along with the filing fees and the additional fee, as applicable on the date of actual filing and the certified copy of the Order of Tribunal for the restoration of the name of the company to the Register maintained by the Defendant Party etc.
- 7.** Appellant Company further submitted that unless the present application is allowed and the name of the company is not restored on the Register of Companies maintained by the Registrar of Companies, the Petitioner as well as its shareholders shall suffer irreparable loss and hardship and will be highly prejudiced.
- 8.** This Tribunal vide order dated 10.05.2023 directed the Appellant to issue notice to the Income Tax Department and to the Registrar of Companies, NCT of Delhi.
- 9.** Upon notice, the counsel for the RoC appeared on 10.04.2024 before this Tribunal and stated that subject to filing of necessary returns by the Appellant Company, they have no objection if the company is revived.
- 10.** On other hand, despite of several Notices served and opportunities given to the Income Tax Department, the Income Tax Department chose not to appear before this Adjudicating Authority.
- 11.** We have heard the contention of the Ld. Council for the Appellant and Ld. Council for the RoC, further, record has been thoroughly perused. At this

junction, it will be advantageous to examine the requirement of Section 252(3) of the Companies Act, 2013 insofar as grant of relief to the appellant is concerned. The Section 252 (3) of the Act is reproduced below for better appreciation:

“252. Appeal to Tribunal. –

(1)

(2)

(3) If a company, or any member or creditor or workmen thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workmen before the expiry of twenty years from the publication in the Official Gazette of the notice under subsection (5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.”

12. In connection with the non-filing of statutory records, it is pertinent to refer to the findings of Hon’ble High Court of Delhi in the matter of **Mace Platronics Pvt Ltd Vs ROC, reported in (2010) 104 SCL 277 (Del)**, wherein it was held that:

“When the name of the company was struck off after following the prescribed procedure for non-filing of statutory records, even though the contentions of the company that the officials entrusted with responsibility of filing documents had

failed to do so cannot be accepted yet since the company was a running company and the application had been filed in time, the court had power to restore the name of the company”

- 13.** The provisions pertaining to restoration of the name of the company has been provided in Section 252 of the Companies Act, 2013 which includes that, if it is just and equitable to restore the name of the company in the Registrar of Companies, it may direct the RoC to restore the name in its Register.
- 14.** Considering the facts and circumstances of the present case, we are of the considered view that it is just and proper to restore the name of the company to the Registrar of Companies as maintained by the ROC.
- 15.** Accordingly, this appeal is allowed. The restoration of the Company’s name to the Register of Companies maintained by the ROC, is hereby ordered, subject to the following directions namely.
 - i. The restoration of the Appellant Company’s name i.e. M/s Delhi Financiers Private Limited is subject to the payment of cost of Rs. 50,000/- (Rupees Fifty Thousand) to be paid to the Registrar of Companies, NCT of Delhi and Haryana. The name of the Appellant Company shall then, as a consequence, stand restored to the Register of the Registrar of Companies, as if the name of the company has not been struck off in accordance with Section 248(1) of the Companies Act, 2013.
 - ii. The Registrar of Companies, NCT of Delhi & Haryana (Respondent) is directed to restore the original status of the Appellant company as if the name of the company has not been struck off from the Registrar of Companies with resultant and consequential actions like changing status of the company from ‘struck off’ to “Active”.
 - iii. The Appellant Company is directed to file all pending statutory document(s) including the E-Form INC 20A along with prescribed

fee/additional fee/fine as prescribed under the Companies Act, 2013 within 45 days from the date on which its name is restored on the Register of Companies by the ROC, NCT of Delhi and Haryana (Respondent).

- iv. The Appellant Company is directed to submit a certified copy of this order to ROC, NCLT of Delhi and Haryana within thirty days (30) of the receipt of this order.
 - v. This order is confined to the violations, which ultimately leads to the impugned action of striking of the name of the Appellant Company, and it will not come in the way of Respondent to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the Appellant company prior or during the striking off of the Appellant Company
- 16.** Resultantly, the present appeal i.e. Company Appeal No. 55/252/ND/2023 stands allowed with aforesaid terms.
- 17.** Let the copy of the order be served to the parties.
- 18.** File be consigned to records.

Sd/-
(DR. SANJEEV RANJAN)
MEMBER (TECHNICAL)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)