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NATIONAL COMPANY LAW TRIBUNAL,  
COURT-IV, NEW DELHI  
Appeal No. 139/252/ND/2020

**IN THE MATTER OF:**

Platinum Suites Private Ltd  
S/o Shri Ghana Nand Bashista  
B-04, Shahpuri Tirath Singh Tower  
C-58, Community Centre, Janakpuri  
New Delhi 110058.

.....Appellant No.1

Vardhman Estates and Developers Private Ltd  
211, 2<sup>nd</sup> Floor, Shahpuri Tirath Singh Tower, Plot No.58, Block-C  
Community Centre, Janakpuri  
New Delhi 110 058.

.....AppellantNo.2

Versus

Registrar of Companies,  
IFCI Tower, 61,  
Nehru Place,  
New Delhi-110019

.....Respondent

**Order Delivered on: /4.12.2020**

**CORAM:**

**DR. DEEPTI MUKESH, HON'BLE MEMBER (JUDICIAL)**  
**MS. SUMITA PURKAYASTHA, HON'BLE MEMBER (TECHNICAL)**

**Present:**

**For the Applicant:**

**Mr. Prashant Katara, Advocate**

**For the Income-tax:**

**Ms. Nancy Jain with Mr. Jacob Hossain (Sr.  
Standing Counsel and Mr. Parth Semwai, Jr.  
Standing Counsel for the Income Tax Deptt.**

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**ORDER**

**Per SUMITA PURKAYASTHA, MEMBER(TECH.)**

1. This Appeal has been filed by Directors of the Company named 'ML Print Private Limited having its registered office at Platinum Suites Private Ltd., having its registered office at B-04, Shahpuri Tirath Singh Tower, C-58, Community Centre, Janakpuri, New Delhi 110058 hereinafter referred to as(the Company) invoking the provisions of Section252 (3) of the Companies Act, 2013 (the Act) for restoration of the name of the Co (Company) in the Register maintained by the Registrar of Companies (RoC), NCI of Delhi & Haryana.
  
2. As per the averments, M/s. Platinum Suites Private Ltd., was incorporated on 23.07.2012 as a private limited company and has its registered office at B-04, Shahpuri Tirath Singh Tower, C-58, Community Centre, Janakpuri, New Delhi 110058 having CIN No. U55101DL2012PTC239160. The business of the appellant company is to promote, develop, manage , maintain run administer, own and to carry on the business of running hotels, motels, Resorts, Holiday Camps, Studio Apartments, Service Apartments, Guest Houses, Restaurant, Canteens, Caterers, Cafes, Taverns, Pubs, Bars, Beer houses, refreshment rooms, shipping complex, Gymnasiums, Clubs , Health clubs, lodging Houses, housekeepers, night clubs, casinos, discotheques, swimming tools, baths, dressing rooms, Jacuzzi Centre, travellers, lodges, auditoriums, conference halls, camping and parking sites and to promote the leisure industry in India and abroad..
  
3. A sweeping action was initiated by the ROC at the instance of MCA in striking off the names of several Companies who had failed to file their Statutory Returns. The appellant had



failed to file its Financial Statements and Annual Returns for the Financial Year ended 31.03.2016 onwards thereby giving rise to the surmise that the business of the company was not in operation. Consequently, its name was struck off by the Respondent from the Register of Companies under Section 248 of the Companies, Act, 2013 by issuing notice dated 09.08.2019 and subsequently vide notification dated 29.10.2019 struck off the name of the Company from register of the RoC. They admit their default in carrying out the statutory compliances but submits that the same was due to lack of professional guidance, inadvertence & oversight.

4. The appellant submitted its Audited Financial Statements for FY ended 31.03.2018 Annual Returns before the respondent.

5. The Appellant submits that the Appellant Company has been in continuous business operation, has been regular in preparing its annual returns and balance sheets and filing income tax returns with the competent authorities and has certain assets which necessitate restoration of its name in the record of ROC. In order to corroborate this submission, the petitioner has placed before us the following evidence.

i) Copy of Auditor's Report along with Audited balance sheets for the period ending 31.03.20218. The Audited Financial Statements reflecting revenue from operations to the tune of Rs.291/- during FY ending 31.03.2018 and current assets of Rs.7,36,375/- as on 31.03.2018.

ii) Income-tax reports for the Assessment Years 2014-15, 2016-16 and 2016-17 has also been filed.

iii) Copy of Bank Statements issued by HDFC Bank for the period 01.04.2015 to 30.03.2019 showing credit balance of Rs.36,697/-.

iv) Audited Financial statements reflecting revenue from operations to the tune of Rs.291/- during FY ending 31.03.2018 and current assets of Rs.7,36,375/- as on 31.03.2018

6. 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.

7. The appellant has been able to satisfy this Bench that it has certain assets which necessitate and justify restoration of its name in the Register of Companies. A step as stringent as what has been taken at least requires an opportunity to the appellant to take remedial measures. Merely to disallow restoration on grounds of its failure to file annual returns would neither be just nor equitable. As per several decisions of various Courts it should only be in exceptional circumstances that Courts should refuse restoration where the company has been struck off for its failure to file annual return as that would be excessive or inappropriate penalty for that oversight.

8. Accordingly, the appeal is allowed subject to payment of costs of Rs. 25,000/- to the Prime Minister Relief Fund. The restoration of the Appellant Company's name in the Register will be subject to their filing all outstanding documents for the defaulting years as required by law and completion of all formalities, including payment of any late fee or other charges which are leviable by the respondent for the late filing of statutory returns. The name

of the petitioner company shall then stand restored in the Register of the Registrar of Companies (RoC), as if its name of the company had not been struck off.

9. The direction for freezing the Bank Account(s) of the Appellant company, if on this ground, shall consequently be also set aside immediately to enable the company carry out its business operation. Compliance of this order for restoration shall be made by the respondent with all its consequential effects within one week of compliance by the appellant.

10. The appeal is allowed and disposed of accordingly.

11. Let the copy of the order be served to the parties.

SOL-

(SUMITA PURKAYASTHA)

Member (T)

SOL-

(DR. DEEPTI MUKESH)

Member (J)