

**In the National Company Law Tribunal**  
**New Delhi Court- IV**

**Appeal No. 37/252/ND/2021**

*(IN THE MATTER OF SECTION 252(3) OF THE COMPANIES ACT, 2013)*

**IN THE MATTER OF:**

**M/S DAWAR BUILDERS PRIVATE LIMITED**

**...APPELLANT**

**VERSUS**

**REGISTRAR OF COMPANIES NCT OF DELHI & HARYANA**

**...RESPONDENT**

**Order Pronounced on: 28.07.2021**

**CORAM:**

**DR. DEEPTI MUKESH,  
HON'BLE MEMBER (JUDICIAL)**

**MS. SUMITA PURKAYASTHA,  
HON'BLE MEMBER (TECHNICAL)**

For the Appellant : Mr. Vijay Kumar Gupta, CA

For the ROC : Ms. Sweety Kumar, AROC

For the IT Dept :



**MEMO OF PARTIES**

**M/S DAWAR BUILDERS PRIVATE LIMITED**

3/2, KIRTI NAGAR,  
INDUSTRIAL AREA,  
NEW DELHI- 110015.

**...APPELLANT**

**VERSUS**

**REGISTRAR OF COMPANIES**

NCT OF DELHI AND HARYANA,  
MINISTRY OF CORPORATE AFFAIRS,  
4<sup>TH</sup> FLOOR, IFCI TOWER,  
61, NEHRU PLACE,  
NEW DELHI- 110019.

**...RESPONDENT**

**ORDER**

**PER – DR. DEEPTI MUKESH, MEMBER (JUDICIAL)**

1. The present appeal is filed by M/s Dawar Builders Private Limited (for brevity the 'Company'), through and by its directors & shareholders under Section 252(3) of the Companies Act, 2013 (for brevity 'the Act') against the order of striking off the name of the company, passed by the Respondent under Section 248 (1) of the Act, 2013 vide Notice No. ROC/Delhi/560(5)SM/260 dated 31.05.2007, which was published in the Gazette of India on 23.06.2007 by Registrar of Companies, the respondent herein.
2. The Appellant states that the company was incorporated as a Private Limited Company with the Registrar of Companies, NCT of Delhi and Haryana under the Companies Act, 1956, on 20.05.1987 with CIN U70101 DL1987 PTC028041, having its registered office at 3/2, Kirti Nagar, Industrial Area, New Delhi- 110015, within the jurisdiction of this Tribunal.

*D.*

3. The Authorized Share Capital of the Company is Rs. 2,00,000/- divided into 20,000 equity shares of Rs. 10/- each. The issued, subscribed and Paid up Share Capital of the Company is Rs. 3,000/- divided into 300 equity shares of Rs. 10/- each, as per the Master Data Annexed.
4. The main objects of the company are:
- (i) To purchase or otherwise acquire lands, houses, buildings, sheds and other fixtures or lands and building and to let them out on lease, rent, contract or any agreement that may be deemed fit by the company.*
- (ii) And the other main objects.*
5. The Respondent herein had issued Public notice bearing No. ROC/DELHI/560(5)/SM/260 dated 31.05.2007. Consequently, Appellant's name was struck off, (Company's name appearing at Sl. No. 3380) whereby name of the companies have been struck off, published in Part-III, Section-I of the Official Gazette of India having registered No. DL(N)-04/0007/2003-05 and Issued No. 25 dated 23.06.2007 from the Registrar of Companies.
6. As per the ROC, Appellant had not filed its Annual Returns and Financial Statements from long period thereby giving rise to the surmise that the business of the company was not in operation. Consequently, the name of the company was struck off in terms of provisions of Section 248 of the Companies Act, 2013 read with Rule 7 and Rule 9 of the

Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

7. The Appellant has brought forward the following documents about it being in operation and functional during the period of striking off:

- (a) Copy of Sale Deed executed on 11.03.1991 between M/s Dawar Builders Pvt. Ltd and Shri Gurmit Singh, S/o- Shri Ram Singh for land bearing Khata No. 85, Khet Nos. 135, 136,137, measuring 5 Nali, 12 Mutthi, at Village Aanu Patti, West Chaikhata, Tehsil and District Nainital for a sum of Rs. 1,73,912/-.
- (b) The Copy of order dated 19.05.2011, in Writ Petition No. 1781 of 2006 (M/S), passed by the Hon'ble Uttarakhand High Court filed by the company.
- (c) The copy of FIR dated 29.09.2012 filed by one of ex-director Mr. Raj Kamal Dabar against Mr. Pani Ram for creating disturbance on the property of the company.
- (d) The copy of order of Court of Tahsildar, Nainital dated 10.07.2015, Suit No. 30/77 for the year 2012/13 filed by company.
- (e) The copy of orders passed by the Court of Civil Judge (Senior Division), Nainital, Civil Suit No. 38/2015 of the Court order dated 04.11.2015, 05.02.2021 and 21.08.2016.

10/11/21

(f) The copy of order of First Additional District Judge, Nainital, Civil Suit No. 59/2015 dated 01.04.2017 filed by Mr. Sunder Lal Arya against the company.

8. ROC has filed its reply and stating that they have no objection if the name of company is restored in the Register of Companies, subject to appellant filing all its pending statutory documents with the Registrar of Companies till date along with the requisite late filing fee as prescribed under the Companies Act, 2013.
9. The Income Tax Department has not filed any reply.
10. The grounds contemplated under Section 252 of Companies Act, 2013, are that the Company was carrying on business or was in operation at the time of striking off its name or where it appears "just" to the Adjudicating Authority that the name of the Company is to be restored to the Register of Companies and Section 252(1) further contemplates that one of the above three conditions are required to be satisfied before exercising jurisdiction to restore the company to its original name on the register of the Registrar of Companies.
11. The Appellant has submitted sufficient evidence that it has been in operation during the period preceding strike off, therefore, it could not be termed as a defunct company as per Section 252 of the Act. Thus, taking into consideration the provisions of Section 252(1) of the Companies Act, 2013, which vests this Tribunal with a discretion where the Company, whose name has been struck off, and such Company is able to

demonstrate that it is just to do so, can restore the name of the Company, in the Register and in the interest of all stakeholders, including the Appellant itself, who seeks restoration of the name of the Company in the register maintained by Registrar of Companies, the company deserve to be restored.

12. Accordingly, this appeal is allowed. The Public Notice of Registrar of Companies, striking off the name of the Company, is hereby declared illegal and set aside. The restoration of the Company's name to the Register of Registrar of Companies is ordered subject to its filing of all outstanding documents with proper filing fees along with additional fees required under law and completion of all formalities, including payment of any late fee or any other charges which are leviable by the Respondent for the late filing of statutory returns, and also subject to payment of Rs. 25,000/- to be paid to Prime Minister's Relief Fund. 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 had not been struck off in accordance with Section 248(1) of the Companies Act, 2013.
13. The Appeal stands allowed and disposed of in the above terms.
14. Let the copy of the order be served to the parties.

SD/-

**SUMITA PURKAYASTHA  
MEMBER (T)**

SD/-

**DR. DEEPTI MUKESH  
MEMBER (J)**