

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-VI

Appeal No.815/252/ND/2018

IN THE MATTER OF:

MIRIC BIOTECH LIMITED

VERSUS

.....Petitioner

THE REGISTRAR OF COMPANIES

...Respondent

Order Delivered on: 13.09.2019

Coram:

(Dr.)P.S.N PRASAD, HON'BLE MEMBER (J))

(DR. V.K. SUBBURAJ, HON'BLE MEMBER (T))

For the Petitioner: M.S. Husain, K.K. Sachdeva, CS.

For the ROC: Mr. M Yadubhushana Rao,

ORDER

(Dr.) P.S.N PRASAD, HON'BLE MEMBER (Judicial)

1. The erstwhile director of Miric Biotech Limited bearing CIN NO: U85100DL2012PLC235336 has filed the present appeal, invoking the provision of section 252 of the Companies Act, 2013 for restoration of

the name of the petitioner company in the register maintained by the Registrar of Companies, NCT of Delhi and Haryana.

2. As per the averments, by Miric Biotech Limited, it was incorporated on 04.05.2012 having its registered office at 105, New Delhi House 27, Barakhamba Road, New Delhi within the jurisdiction of this Tribunal. The main object of Company is “ *To carry on the business of all kinds of Health Foods, processed foods, tea, trade, sell, buy, import, export, market, test and if required to establish laboratory for testing the products and other Pharmaceutical allied products*”.
3. It is submitted by the appellant that a sweeping action was initiated by the ROC at the instance of MCA in striking of the names of several Companies who had failed to file their Statutory Returns. The appellant had not filed its Annual Returns and balance sheet since Financial Year ending 31.03.2016, thereby giving rise to the surmise that the business of the company was not in operation. Consequently, its name was struck off vide STK-7 dated 08.08.2018 by the Respondent from the Register of Companies under Section 248 of the Companies Act, 2013, upon taking steps in accordance with law and issuing a notification in the Official Gazette. The names of the effected companies was posted on its website.

4. The appellant has submitted that since its incorporation, the company is active and has been carrying on business since its incorporation. The Appellant has further submitted that the company had filed Annual returns for the financial year ending 31.03.2016 and 31.03.2017 on 02.07.2018 vide SRN G91525752 and G91826370. However, when the Company tried to file Balance Sheet on 08.08.2018 the status of the Company was strike off. The appellant has further submitted that the defaults of non-filing of the Annual returns and balance sheets were committed inadvertently and without any malafide intentions on the part of the petitioner.
5. In order to sustain the plea for restoration, the petitioner has placed before us the following documents:
- i. Copies of Auditor's Report and balance sheet for the financial year 2015-16 and 2016-17.
 - ii. Copy of Bank Statement from 01.04.2016 to 31.03.2018 which shows a reasonable number of day to day transactions of the company.
 - iii. True copies of Telephone Bills of the Company from April 2016 to March 2018. The last bill paid by the appellant for the month of March 2018 was Rs. 3224/-.

iv. Copy of lease deed dated 01.04.2015 in favour of Company M/S
Miric Biotech Limited.

6. The balance sheet for the year 2016-17 filed by the applicant indicates that the company has taken long term loans in cash to the tune of Rs. 60,81,000/- and short term loans in cash to the tune of 1,00,000/-. It is seen from the records placed before this Tribunal that the Company has Incurred loss of Rs. 58,73,468/- during the year .The Company has not generated any Revenue during the year. 2016-17. Current Liabilities of the Company is Rs. 1,40,70,662/- and whereas Current Assets of the company is Rs. 15,98,555/-. This shows that the current assets are more than current liability.
7. The Income Tax Department has filed its reply on 01.04.2019 in which it has been submitted that the Company has not filed its Income Tax return for A.Y. 2012-13 to 2017-18. The department has also submitted that no proceedings are pending against the Appellant Company under the Income Tax Act, 1961.
8. The provisions pertaining to restoration of the name of the company have been provided in Section 252 of the Companies Act, 2013 and the same envisage that if the Tribunal is of the opinion that the removal of the name of the company from the Register of the Companies is not justified

in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the Register of Companies. On perusal of the documents referred to in paragraph 5 above, a reasonable presumption can be inferred that the company was active before being struck off from the register.

9. Accordingly, the petition is allowed subject to payment of costs of Rs. 25,000/- to the Prime Minister Relief Fund. The restoration of the petitioner 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, as if the name of the company had not been struck off in accordance with Section 248(5) of the Companies Act, 2013 with all consequential effects and benefits.
10. 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's time of compliance by the appellant.

11. The petition is disposed off accordingly.

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

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DR. V.K. SUBBURAJ,
MEMBER (T)

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DR. P.S.N PRASAD,
MEMBER (J)