

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-VI

Appeal No.230/252/ND/2020

IN THE MATTER OF:

i. Dr. Parmar Consultants India Private Limited

Having Its Registered Office At:

House No. F-276, Ground Floor Village- Ghitorni,

Near 100 Feet Road New Delhi

South West Delhi -110030,

ii. Sujeet Singh Parmar

R/O At Po- Shahpur, Danapur, Patna.

iii. Prabha Devi

R/O Shahpur, Raghapur, Danapur, Patna.

.....Appellant's/Petitioner's

Versus

i. Registrar Of Companies

Nct Of Delhi And Haryana, New Delhi

ii. Union Of India, Ministry Of Finance

Through Income Tax Department.

.....Respondents

Order Delivered on: 11/11/2020

Coram:

SHRI. P.S.N. PRASAD

Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ

Hon'ble Member (Technical)

Appeal No.230/252/ND/2020



For the Petitioner: Mr. Gursat Singh and Mr. Biswaksen Panda, Advocates.

For the Income Tax Department: Mr. Sunil Aggarwal, Sr. standing counsel and Mr. Tushar Gupta, Jr. Standing Counsel.

ORDER

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

1. The erstwhile director of Dr. Parmar Consultants India Private Limited bearing CIN NO: U74140DL2014PTC266072 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 Dr. Parmar Consultants India Private Limited is incorporate on 10.03.2014 having its registered office at House No. F-276, Ground Floor Village- Ghitorni, Near 100 Feet Road New Delhi South West Delhi -110030, within the jurisdiction of this Tribunal. The Authorized Capital of the company was Rs. 200000 /-. The Paid-up Capital of the company was Rs. 200000 /-. the main objects of the company were as "To act as multidisciplinary consultants and provide advice and consultancy services to clients in various fields such as finance, corporate governance, general administration as well as



consultant for execution for projects on turnkey basis for equipment's of industrial, industrial setup domestic and other purpose & marketing of allied materials

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 its incorporation, 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, upon taking steps in accordance with law and issuing a notification in the Official Gazette. The names of the effected companies were posted on its website.
4. The appellant has submitted that they could not file the balance sheet and annual return since its incorporation along with relevant documents with the ROC. The appellant has further submitted that non-Compliance in filings of financial statements with registrar of Companies were done without any mala fide intention on the part of the applicant. The company has also submitted that the company has prepared its financial statements on timely basis. Further it is submitted by the appellant that the company



is currently engaged in the business of multidisciplinary consultants and it is going through a difficult phase since past few years.

5. In order to sustain the plea for restoration, the petitioner has placed before us the following documents:

- i. Copies of duly Audited Financial Statement for the financial year 2014-2015 to 2017-2018.
- ii. Copy of sale deed annexed as Annexure- A-4 of the main petition which shows the appellant had purchased a property at village Roja Jalalpur Pargana District Dadri, Gautam Budha Nagar 150.50 sq. meters Khasra No.8.

6. It is pertinent to mention here that the Revenue from Operations as per Profit & Loss A/c attached for the F.Y. 2017-18 is Rs. 330,000/- and for the F.Y. 2016-17 Rs. 235,000/-

7. It is pertinent to mention here that as per the order dated 23.10.2020 of this Tribunal the Income Tax Department has submitted their no objection in reviving the company.

8. The provisions pertaining to restoration of the name of the company has been provided in Section 252 of the Companies Act, 2013 and the same envisages 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. Further, restoration may also be directed by the Tribunal if it is just and equitable to restore the name of the company in the Register of Companies.

9. The Act itself provides for redressal of these defaults. 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 Court 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.
10. Accordingly, the appeal is allowed subject to payment of costs of Rs. 50,000/- to the Prime Minister Cares 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.

11. 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 to 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.

12. The petition is disposed of accordingly.

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

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(DR. V.K.SUBBURAJ)
MEMBER (TECHNICAL)

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(P.S.N PRASAD)
MEMBER (JUDICIAL)