

**THE NATIONAL COMPANY LAW TRIBUNAL  
COURT V, NEW DELHI**

**I.A No. 3318/2023**

**IN**

**Company Petition No. (IB) – 242/(ND)/2021**

*Under Section 60(5) of the Insolvency and Bankruptcy  
Code, 2016 read with Rule 11 of NCLT Rules, 2016.*

**IN THE MATTER OF:**

EIK INVESTMENT AND TRADING LIMITED

.... OPERATIONAL CREDITOR

**VERSUS**

DBG LEASING AND HOUSING LIMITED

.... CORPORATE DEBTOR

**AND IN THE MATTER OF-**

MR. RAJEEV RANJAN SINGH  
RESOLUTION PROFESSIONAL OF  
DBG LEASING AND HOUSING LIMITED

.... APPLICANT

**VERSUS**

THE REGISTRAR OF COMPANIES

.... RESPONDENT

**Order Pronounced on: 04.07.2024**

## **MEMO OF PARTIES**

### **Mr. Rajeev Ranjan Singh**

Resolution Professional in the matter of CIRP of  
DBG Leasing and Housing Limited  
Address: Flat No. 14049, Block- G,  
16<sup>th</sup> Avenue, Gaur City-2, Greater Noida West,  
Uttar Pradesh- 201310

Applicant

Vs.

### **The Registrar of Companies**

Address: 4<sup>th</sup> Floor, IFCAI Tower, 61,  
Nehru Place, New Delhi- 110019  
Email: roc.delhi@mca.gov.in

Respondent

### **CORAM:**

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

### **APPEARANCES:**

**For the RoC** :Adv. Sumeet Kaul

**For the RP** :Karan Gandhi, Adv.

## **ORDER**

**PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)**

1. This application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 on behalf of the Resolution Professional of DBG Leasing and Housing Limited seeking appropriate directions for restoring the name of DBG Leasing and Housing Limited (Corporate Debtor) in the register of companies maintained by the Registrar of Companies (Respondent).
2. The applicant in the present application has prayed for the following reliefs: -

2

**IA- 3318 of 2023**

**IN**

**CP(IB) No. 242/ND/2021**

**Order Delivered On: 04.07.2024**

- a) *Pass an order that the name of the Corporate Debtor be restored in the register of companies maintained by the office of the Registrar of Companies, NCT Delhi & Haryana for placing the Corporate Debtor in the same position as nearly as may be as if the name of the Corporate Debtor had not been struck off at all;*
- b) *Pass the consequential directions upon the bankers of the Corporate Debtor to remove the debit freeze upon the bank accounts of the Corporate Debtor;*
- c) *Pass such other/further order(s) or direction(s) as this Hon'ble Tribunal may deem fit and proper*

3. Briefly stated the facts of the case as mentioned in the instant application, which are just and necessary for adjudication, are as follows: -

- i. The Applicant in the present case is the Resolution Professional of the Corporate Debtor appointed vide order dated 16.11.2022 passed by this Adjudicating Authority in CP IB No. 242/ND/2021 titled EIK Investment and Trading Limited Vs. DBG Leasing and Housing Limited vide. The Applicant assumed the control of the Corporate Debtor as provided U/s 17 of the Code and as provided U/s 15 issued a public announcement of corporate insolvency resolution process in prescribed 'FORM A on 20.11.2022 in two newspapers namely Jansatta (Hindi) and Financial Express (English) Delhi Edition having wide circulation at the location of the registered office inter alia inviting the claims from the creditors of the Corporate Debtor.
- ii. The Applicant observed that the name of the Corporate Debtor was struck off from the Register of Companies vide Gazette Notification dated 29.10.2019. The Applicant informed the ROC about the commencement of CIRP of the Corporate Debtor through email dated 24.11.2022 along with letter dated 22.11.2022 visited ROC on 25.11.2022 to know the procedure of restoration of name of the Corporate Debtor. Consequently, the Applicant has received the acknowledgement of the same letter and was instructed to visit after one week. Subsequently, the Applicant again visited ROC on 02.12.2022 with the request letter dated 30.11.2022 to restore the name of the Corporate Debtor. Copy of the

acknowledgements of letter dated 22.11.2022 and 30.11.2022 along with email dated 24.11.2022 is placed on record as Annexure 3.

- iii. It is pertinent to mention here that the Corporate Debtor was incorporated on 05.12.1990 with the objects inter alia "*to carry on the business of leasing in lands, buildings, factories, houses, flare and other residential, commercial, agricultural and mining properties, movable and immovable goods, and machinery*" e.t.c. Copy of the MoA & AoA of the Corporate Debtor is placed on record as Annexure 4. Further, as on date of filing of the present Application, the erstwhile management of the Corporate Debtor has shared the copy of the audited financial statement for the 2017-18, which however does not provide any income from business operations or otherwise but the Corporate Debtor holds non-current investments in the form of quoted as well as unquoted securities which is a critical asset for the revival of the Corporate Debtor. Further, the audited financial statement as on 31.03.2018 also provides for long term loans and advances made by the Corporate Debtor. In order to pursue the appropriate legal remedy to secure and avail such assets by the Applicant as per the duties vested to him under the provisions of the Code, which are critical to the survival of the Corporate Debtor and its resolution under the provisions of the Code, the Applicant is presenting the present Application for restoration of the name of the Corporate Debtor on the register maintained by the Respondent. Copy of the audited financial statement of the Corporate Debtor as on 31.03.2018 is placed on record as Annexure 5.
- iv. Further, the office of the Respondent proceeded with striking off the name of the Corporate Debtor vide notice issued under form STK-7 dated 29.10.2019. That vide said notice dated 29.10.2019, the Respondent struck off more than 8000 companies. Copy of the notice (form STK-7 dated 29.10.2019) is placed on record as Annexure 7. As per the records submitted by the erstwhile management of the Corporate Debtor with the office of Applicant, the Corporate Debtor is also having a bank account maintained with Axis Bank, Jasola Branch where the Corporate Debtor has a balance of Rs. 39,058/- That as per the information collected by the Applicant, the said bank account of the Corporate Debtor is under debit freeze

due to instructions followed upon striking off of the name of the Corporate Debtor by the office of the Respondent. Copy of the bank statement as on 31.03.2022 is placed on record as Annexure 8.

- v. The Applicant is duty bound under the provisions of the Code to protect and preserve the value of the assets of the Corporate Debtor and thus constrained to approach this Adjudicating Authority through present Application inter alia seeking revival of the Corporate Debtor u/s 252 and consequent prayers for defreezing of the bank account of the Corporate Debtor. Further, due to the Corporate Debtor being struck off, the Applicant is unable to open CIRP bank account of the Corporate Debtor, upload the necessary forms on the online portal of the Ministry of Corporate Affairs and meet other compliances, proceed with the CIRP etc.
- vi. Further, the present Application is in the interest of the stakeholders and if not allowed will jeopardize the chances of revival of the Corporate Debtor and result in loss of value of the assets of the Corporate Debtor available to the creditors/proposed resolution applicants. The Applicant shall endeavour to comply with the directions towards meeting compliances in relation to the affairs of the Corporate Debtor if the present Application is allowed. Further, no proceedings under Section 241 and 242 of the Companies Act, 2013 have ever been instituted against the Corporate Debtor nor any prosecution proceedings are pending against the Corporate Debtor.
- vii. Further, an Appeal u/s 252 of the Companies Act, 2013 being Appeal No. 13/ND/252/2023 was preferred by the Applicant which is pending before the NCLT, New Delhi Bench IV. That the Applicant had issued a Form G inviting expression of interests on 16.01.2023 pursuant to which the Applicant has received 4 interests from the prospective resolution applicants. That the Applicant has also been receiving queries from the PRA's concerning the revival of the Corporate Debtor. That requests have been received for pursuing the present application instead of aforementioned appeal to streamline and expedite the plan approval process along with revival. Accordingly, the Applicant placed and

informed such requests and discussions with the PRA's before the CoC in its last meeting held on 10.04.2023 wherein inter alia CoC has instructed the Applicant to withdraw the aforesaid appeal and pursue the appropriate remedies through the present application Copy of the minutes of CoC held on 10.04 2023 is placed on record as Annexure 10.

4. We have gone through documents on record filed and arguments advanced by counsel for the Applicant and Respondent.
5. In the present case, vide order dated 16.11.2022 passed by this Adjudicating Authority in CP IB No. 242/ND/2021 titled EIK Investment and Trading Limited Vs. DBG Leasing and Housing Limited, the Applicant was appointed as the Resolution Professional. Further, during CIRP the name of the Corporate Debtor was struck off from the Register of Companies vide Gazette Notification dated 29.10.2019. The Applicant informed the ROC about the commencement of CIRP of the Corporate Debtor through email dated 24.11.2022 along with letter dated 22.11.2022 visited ROC on 25.11.2022 to know the procedure of restoration of name of the Corporate Debtor. Consequently, the Applicant has received the acknowledgement of the same letter and was instructed to visit after one week. Subsequently, the Applicant again visited ROC on 02.12.2022 with the request letter dated 30.11.2022 to restore the name of the Corporate Debtor.
6. Further, due to the Corporate Debtor being struck off, the Applicant is unable to open CIRP bank account of the Corporate Debtor, upload the necessary forms on the online portal of the Ministry of Corporate Affairs and meet other compliances, proceed with the CIRP etc. Moreover, the Resolution Plan has been approved by the CoC and the same is pending for consideration of this Adjudicating Authority.
7. This Adjudicating Authority vide order dated 30.08.2023 directed the instant Applicant to issue notice to the Respondent and Income Tax Department. Pursuant to notice, Registrar of Companies, NCT of Delhi and Haryana (Respondent) had appeared before this Adjudicating Authority and submitted that they have no objection if the Company's name is restored, as recorded in the order dated 12.06.2024.

8. Furthermore, the legislative intent of IBC is the revival of the Corporate Debtor and maximizing the value of its assets. As the Resolution Plan is already pending before this Adjudicating Authority for consideration, at this stage, we find no impediment in allowing the instant application, or else it will jeopardize the chances of revival of the Corporate Debtor and it will result in loss of value of the assets of the Corporate Debtor available to the creditors/proposed resolution applicants.
9. Therefore, keeping the intent of the IBC in mind and upon considering the facts and circumstances of this present application, it would be just and proper to order restoration of the name of the Company in the Register of Companies maintained by the ROC.
10. As per Section 60(5), the NCLT is having jurisdiction on any question of law or facts, arising out of or in relation to the insolvency resolution of the Corporate Debtor. In order to have effective resolution of the Corporate Debtor, it is necessary that the name of the Corporate Debtor is restored in the RoC record. Further, in terms of Section 252 (3) of the Companies Act, 2013, the NCLT has power to order restoration of name of the company, if it is just to do the same. The notice on this application was also given to RoC and the RoC has given their no objection for revival of the name of the Company. Therefore, on exercise of powers conferred under Section 60(5) of IB Code, 2016 read with Section 252(3) of the Companies Act, 2013, we order that the name of the Corporate Debtor company be restored in the Register of the RoC.
11. Accordingly, this Petition 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-
- a) The restoration of the Applicant Company's name i.e. DBG Leasing and Housing 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 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.

- b) The Registrar of Companies, NCT of Delhi & Haryana (Respondent) is directed to restore the original status of the 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".
- c) The Applicant is directed to file all pending statutory document(s) including Annual accounts and annual returns for the relevant financial year in default 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). Consequently, thereupon the bank account/s if any subject to freeze shall get defreezed and to be operated by the company.
- d) The Applicant is directed to submit a certified copy of this order to ROC, NCT of Delhi and Haryana within thirty days (30) of the receipt of this order.
- e) This order is confined to the violations, which ultimately leads to the impugned action of striking of the name of the 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 Applicant's company prior or during the striking off of the Applicant's Company.
- f) Resultantly, the present application i.e. IA 3318 of 2023 in CP (IB) /242/(ND)/2021 stands allowed with aforesaid terms and is accordingly disposed of.

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

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

**Sd/-**  
**(MAHENDRA KHANDELWAL)**  
**MEMBER (JUDICIAL)**