

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-VI

Appeal No.359/252/ND/2020

IN THE MATTER OF:

SANJIVANI ASSOCIATES PRIVATE LTD.

Through

1. Mr. Prabhas Narain Misra, Director.

2. Mrs. Usha Rani Misra, Director

Having Its Registered Office At:

E-438, Greater Kailash,

New DelhiAppellant's/Petitioner's

Versus

i. Registrar of Companies

NCT Of Delhi And Haryana, New Delhi

.....Respondents

Order Delivered on: 24.12.2020

CORAM:

SHRI. P.S.N. PRASAD

HON'BLE MEMBER (JUDICIAL)

DR. V.K. SUBBURAJ

HON'BLE MEMBER (TECHNICAL)

Present:

For the Appellant: Mr. Sujit Gupta, Advocate

Appeal No.359/252/ND/2020



For the Income Tax Department: Mr. Zoheb Hossain, (Sr. Standing Counsel),
Mr. Parth Semwal(Jr. Standing Counsel) and Mr. Syed Tamjeed Ahmad, Adv.

For the ROC: Mr. M. Yadubhushana Rao, AROC.

ORDER

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

1. The erstwhile directors of Sanjivani Associates Private Ltd. 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 Sanjivani Associates Private Ltd. is incorporate on 31.12.1986 having its registered office at E-438, Greater Kailash, New Delhi, within the jurisdiction of this Tribunal. The Authorized Capital of the company was Rs. 2,500,000/-. The Paid up Capital of the company was Rs. 2,060,500/-. the main objects of the company were as "To carry on the business of designing, supplying, merchandising, site erecting, testing, commissioning as well as to act as exporters, importers, commission agents, manufacturer's representatives or agents, stockiest, brokers, and trustees in all forms and branches of plant and machinery of any kind and nature."

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 2015-16, 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 2006 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 because of lack of proper professional guidance, oversight and inadvertent reasons. The company has also submitted that the company has prepared its financial statements on timely basis.
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 31.03.2012 to 31.03.2018.

- ii. Copies of Acknowledgment of filing IT returns from A.Y 2016-17 and 2018-19.
6. It is pertinent to mention here that the as per the balance sheet of 31.03.2018 the company has the Share capital of 2060500 and Rs. 306093/- as reserve and surplus. Additionally, it is also reflected from the balance sheet that the Share application money pending allotment for the Company is Rs.271000/-.
7. The provisions pertaining to restoration of the name of a Company have been provided in Section 252 of the Act which include that, if it is just and equitable to restore the name of the Company, the Tribunal may direct the RoC to restore the name in its Register. The lapses on the part of the management in non-filing of annual returns and financial statements in time can be countered by imposing higher cost. Besides, nobody would be prejudiced by the restoration of the name of the Company. On the contrary, the restoration is in the interest of the Company.
8. The appeal to restore the name of the Company to the Register of RoC is **allowed** subject to payment of costs of Rs 50,000 to the Prime Minister Relief Fund along with Rs 75,000 to the Ministry of Corporate Affairs. Accordingly, the order of RoC to strike off the name of the Company from

the Register is hereby set aside. The restoration of the name of the Company in the Register will be subject to the Company's 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. The name of the Company shall then stand restored in the Register of the RoC, as if its name had not been struck off.

9. The direction for freezing the Bank Account(s) of the 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 RoC with all its consequential effects within one week of compliance by the Company.

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


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


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