

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

**Appeal No.594 /252/ND/2019**

IN THE MATTER OF:

INCOME TAX OFFICER,  
WARD 16(2) NEW DELHI

...Petitioner

VERSUS

THE REGISTRAR OF COMPANIES  
NCT OF DELHI & HARYANA

...Respondent No.1

AND IN THE MATTER OF

M/S MAGIC INFRABUILD PVT LTD  
A-1168, Utsav Vihar, Village Karalla,  
New Delhi- 10019

.... Respondent No.2

RAJ KUMAR AGGAR WAL  
DIN: 01693700

.... Respondent No.3

PAWAN KUMAR  
DIN: 01710618

.... Respondent No. 4

GOPAL SINGH  
DIN: 01710731

.... Respondent No.5

**Order Delivered on: 31.10.2019**



**CORAM:**

**JUSTICE (RETD.) RAJESH DAYAL KHARE, MEMBER(JUDICIAL)**  
**MR. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)**

PRESENT- Ms. Puneet Rai for the Petitioner (Counsel, I.T Dept)  
Ms. Sweety Khatter Kumar, AROC for Respondent No.1  
None present for Respondent No. 2 to 5

**ORDER**

**Per Ms. Sumita Purkayastha (Member Technical)**

1. This petition has been filed by Income Tax Authority invoking the provisions of Section 252 of the Companies Act, 2013 for restoration of the name of the Respondent No. 2 company, viz M/S Magic Infrabuild Pvt. Ltd, in the Register of Companies maintained by the RoC, Respondent no.1.
2. Other than the RoC, none appeared on behalf of the respondent no. 2 to 5 to oppose the prayer made by the petitioner, hence are proceeded ex-parte. Respondent No. 1 the RoC submits that they have no objections to the prayer of the petitioner being granted by this bench.
3. Vide Proceedings initiated by the Ministry of Corporate Affairs, through the office of the RoC, names of several companies were struck off for want of filing Statutory Returns.



4. Respondent no. 2 company, which had not filed any Return or Financial Statement, was duly struck off from the Register of Companies vide STK-7 dated 30.06.2017.
5. Invoking the provision of section 252 of the Act, the Income Tax Dept. prays for restoration of the Respondent Company's name in order to carry out proceedings initiated against them. As per averments, the information available with the Income Tax Department system states that the respondent Company has deposits amounting to Rs. 1,00,00,000/- in their Yes Bank Account. That the assessee company has filed the return but not declared the deposits in the Income Tax Return. No sales/gross receipts have been shown except interest receipts of Rs. 2,02,123/- for the Assessment Year 2012-13.
6. The respondent no. 2 company did not disclose fully and truly all material facts necessary for assessment hence, an estimated amount of Rs. 1,00,00,000 /- has escaped assessment within the meaning of section 147/148 of the Income Tax Act, 1961 and has not been brought under tax for A. Y. 2012-13.
7. Ld. Standing Counsel for the IT dept. submits that there are recovery & penalty proceedings pending under Section 148 of Income Tax Act. Action in accordance with law is required to be initiated



against the Respondent company. Notice on 29.03.2019 under section 148 of the IT Act, 1961, was issued to the respondent 2 to 4 at its registered address to which there has been no response.

8. Ld. Counsel for the Income Tax Submits that the aforesaid facts necessitate restoration of the name of the Respondent Company in the Register of Companies to proceed further in accordance with law. In view of the grounds raised by the applicant, being an aggrieved person, the prayer can be entertained u/s 252(3) of the Code.
9. We however make it clear that this Bench has only directed restoration of the name of the Respondent company in the Register of Companies maintained by the ROC on the basis of averment made in the petition and in no way endorse or have adjudicated about their entitlement to recover which shall be adjudicated by the department subject to the laws of limitation governing such recoveries. Charges involved in seeking restoration of the company's name with the office of the RoC shall be borne by the applicant. Petition is disposed off in terms of the above. Compliance be made with the RoC within 30 days.
10. The petition is therefore allowed. The RoC is therefore directed to restore the name of the Respondent Company in their Register



and also proceed to take such other and further penal action against the respondents in accordance with the statutory provisions.



**Sumita Purkayastha**  
Member (T)



**Justice. Rajesh Dayal Khare**  
Member (J)