

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH COURT-III
(SPECIAL BENCH)

COMPANY APPEAL NO. 236/252/ND/2022

An application under section 252 of the Companies Act, 2013.

IN THE MATTER OF

1. PURNIMA GUPTA

Director of Alluring Apparels Pvt. Ltd.
C-1,2,3, Netaji Subhash Place,
Pitampura, New Delhi-110034

.... Appellant

2. M/s. ALLURING APPARELS PVT. LTD.

C-1,2,3, Netaji Subhash Place,
Pitampura, New Delhi-110034

.... Struck off Company/Appellant Company

VERSUS

1. THE REGISTRAR OF COMPANIES

NCT of Delhi and Haryana
IFCI Tower, 4th Floor, 61, Nehru Place,
New Delhi-110019

...Respondent No.1

2. INCOME TAX OFFICE

C.R, Building, ITO,
I.P Estate,
New Delhi-110002

...Respondent No.2

Order pronounced on: 10.05.2024

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCES

For the Applicant: Ms. Kanika Singhal Adv.

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

1. The present Petition has been filed by the Director of the Appellant Company namely Ms. Purnima Gupta under Section 252(3) of the Companies Act, 2013 for restoration of name of the struck off company in the register of companies, maintained in the office of the Registrar of Companies, NCT of Delhi and Haryana. It is stated that the company 'M/s. Alluring Apparels Pvt. Ltd. was incorporated on 15.01.2007 and the name of the Company was struck off via notice no.- ROC-DEL/248(5)/STK-7/2879 on 30.06.2017 by the ROC.
2. It is contended that the reason given by RoC for striking the name of the company is that the Company has not been carrying on any business or operation for two years immediately preceding financial years and has not made any application within such period for obtaining the status of dormant company u/s 455 of Companies Act.
3. The Appellant Company's business is "Of real estate development, which is confined to activities that range from the renovation and re-lease of existing buildings to the acquiring of raw land and the sale of developed land or selling finished residential projects to the prospective purchasers". The Authorized Capital of the Company is Rs. 1,00,000/- (Rupees One Lakhs Only) and the issued, subscribed and paid up capital of Rs. 1,00,000 (Rupees One Lakhs Only).
4. The Appellant submits that the real estate market experienced a stunted growth during the two preceding years from the striking off due to which the Appellant company was not able to make any sale of their properties. The Appellant company during that period did not get the sufficient profit from the sale of property due to which no property was sold for those two years. The market crash brought the Appellant Company nothing but meager profit whereas the Registrar of Companies, NCT of Delhi & Haryana took it as an inactive period. This situation

brought disturbance to the smooth functioning of the business and the Strike off notice by the Respondent shut down the business of the Appellant company leading to agony and suffering in business.

5. It is submitted that the Appellant Company was involved in the property transactions and if the name of the company remains delisted from the Register, it would be burdensome and the company would not be able to execute sale deeds so as to sell the properties owned by it.
6. The Appellant/Petitioner undertakes to comply with all the provisions of Companies Act, Income Tax Act and other applicable Acts. The Appellant Company is ready to comply with all the compliances of the Companies Act, 2013 and shall file pending Balance Sheets and Annual returns with the Registrar of Companies, NCT of Delhi & Haryana along with additional fees as applicable.
7. Notice was issued to the Registrar of Companies, NCT of New Delhi and Haryana. The Registrar of Companies has submitted a report. It was stated in the report that only after compliance with the requirements to be met under Section 248 of the Companies Act, 2013, the Registrar of Companies has struck off the company's name from the register.
8. RoC has not objected to this application for restoration of the name of the company subject to statutory compliances being made.
9. The provisions of section 252 of the Companies Act, 2013, vests this Tribunal with the discretion that where the Company, whose name has been struck off, is able to demonstrate that it is just and equitable to do so it can restore the name of the Company, in the Register of the Registrar of Companies. The Appellant itself, who now seeks restoration of the name of the Company in the register maintained by Registrar of Companies and company not being a shell company then the company deserves to be restored.

10. According to Section 252 of the Companies Act of 2013, any member or creditor who feels aggrieved is also qualified to file "Appeal" against the Registrar of Companies' decision before the period of 20 years following the date the decision was published in the Official Gazette. We are of the considered view that appellant is the Director and in the light of the above findings, this company appeal is maintainable in the eyes of law.
11. On perusal of the application, we are satisfied that the name of the company should be restored to the register.
12. Accordingly, the present petition is allowed on the following terms: -
- a.** The Registrar of Companies, NCT of Delhi and Haryana the respondent herein is directed to restore the original status of the petitioner company as if the name of the Company had not been struck off from the register of Companies with the resultant and consequential actions like changing status of petitioner company from 'struck off' to 'Active'.
 - b.** The Petitioner Company is directed to file all pending statutory documents including Annual Accounts and Annual returns along with the prescribed fee and additional fee as decided by Registrar of Companies, NCT of Delhi and Haryana within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, NCT of Delhi and Haryana.
 - c.** Accordingly, the appeal is allowed, subject to payment of costs of Rs. 50,000/- to the Registrar of Companies. The restoration of the Appellant 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 Appellant Company shall

then stand restored- in the Register of the RoC, as if the name of the company had not been struck off.

- d.** The petitioner is directed to deliver a certified copy of this order with the Registrar of Companies, NCT of Delhi and Haryana within thirty days of the receipt of this order.
- e.** On such delivery and after due compliance with the above directions, the Registrar of Companies, NCT of Delhi and Haryana is directed to publish the order in the Official Gazette under his office name and seal.
- f.** This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of the Registrar of Companies, NCT of Delhi and Haryana to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off.

- 13. The Company Appeal No. 236/252/ND/2020 is **Allowed** and **disposed off** accordingly.
- 14. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
- 15. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

Sd/-

**RAHUL BHATNAGAR
MEMBER (TECHNICAL)**

Sd/-

**BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**