

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V
Appeal No. 773/252/ND/2019

IN THE MATTER OF:

Item No. 320 of 25.02.2020

Sai Abacus Education System Pvt. Ltd.,
2769, Pepal Mahadev Hauz Quazi, Delhi, 110006

.....Appellant

Vs.

Registrar of Companies,
4th Floor, IFCI Tower, Nehru Place, New Delhi-110019

.....Respondent

Order Delivered on: 2^b1.02.2020

CORAM:

ABNI RANJAN KUMAR SINHA, MEMBER (J)

K.K. VOHRA, MEMBER (T)

PRESENT:

For the Applicant : Adv. Sujatha

For the Respondent : Mr. M. Yadubhushana Rao, Ld. ARoC

ORDER

Per K.K. Vohra Member (T)

1. This Appeal has been filed by 'Sai Abacus Education System Pvt. Ltd.' (Company) invoking the provisions of Section 252 of the Companies Act, 2013 (The Act) for restoration of the name of the Company in the Register of Companies (Register) maintained by the Registrar of Companies (RoC).
2. As per the averments, the Company was incorporated on 25.04.2005 as a private limited Company and has its registered office at 2769, Pepal Mahadev Hauz Quazi, Delhi-110006, having Corporate Identity Number (CIN U803 01DL 2005 PTC1 35310). The Company carried on the business setting up pre-nursery to senior secondary schools, college institutes and universities in India and abroad to impart education to students and conduct research in scientific, business, medicine, health services, engineering etc.
3. An action was initiated by the RoC at the instance of MCA in striking off the names of several Companies who had failed to file their Statutory Returns. The Company did not file annual returns to RoC for the period

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Sai Abacus Pvt. Ltd.

2015-16 and 2016-17 Financial Years thereby giving rise to surmise that the Company was not doing any business activity. Consequently, its name was struck off by the Respondent (RoC) from the Register under Section 248 of the Act vide notification dated 08.08.2018.

4. The Appellant is ready to submit its Annual Returns before the RoC.
5. The Appellant submits that it has been in continuous business operation, has been regular in preparing balance sheets and filing Income Tax (IT) Returns with the competent authorities. In order to corroborate this submission, the Company has placed before us the following evidence:
 - i. As per the audited financial statements for the year ended on 31st March 2018, the Company had revenue from operations of Rs. 5,65,880 (Rs. 9,58,880 for FY 2016-17). As on 31st March, 2018, long term borrowings were Rs. 9,34,055 (Rs 9,34,055 as on 31st March, 2017). As per the audited financial statements for FY 2015-16, the Company had revenue from operations at Rs. 11,60,752. As on 31st March, 2016, long term borrowings were Rs. 9,34,055.
 - ii. The Company has submitted IT Returns for the AY 2018-19, 2017-18 and 2016-17.
 - iii. The Counsel for the Company has stated that the Company submitted Form MGT-7 along with financial statements on 12.07.2018 and submitted receipt in support thereof. The Company further submitted that the name of the Company was struck off on 08.08.2018 in spite of having submitted various returns. The Company pleaded that its name should be restored in the Register as it has been engaged in the activity of education and has been preparing its financial statements regularly.
6. The provisions pertaining to restoration of the name of the 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 in the Register, the Tribunal may direct the RoC to restore the name in its Register.
7. In view of the Company working as a going concern at the time of striking off (revenue from operations for FY 2017-18 was Rs. 5,65,880), submitting IT Returns, preparing balance sheets, the Appeal to restore the name of the Company to the Register of RoC is **allowed** subject to payment of

costs of Rs. 25,000 to the Prime Minister Relief Fund along with Rs. 50,000 to the Ministry of Corporate Affairs. Accordingly, the order of RoC dated 08.08.2018 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 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.

8. 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.
9. Let the copy of the order be served to the parties.

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K.K. VOHRA
Member (T)

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2020

ABNI RANJAN KUMAR SINHA
Member (J)