

In the National Company Law Tribunal
New Delhi, Court - IV

Appeal No. 38/252/ND/2021

(IN THE MATTER OF SECTION 252(3) OF THE COMPANIES ACT, 2013)

IN THE MATTER OF:

M/S EXXIM INVESTMENTS AND ACQUISITIONS PVT. LTD. AND OTHERS

.....APPELLANTS

VERSUS

REGISTRAR OF COMPANIES, NCT OF DELHI & HARYANA


.....RESPONDENT

Order Pronounced on: 18.03.2021

CORAM:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL),**

**MS. SUMITA PURKAYASTHA,
HON'BLE MEMBER (TECHNICAL)**

 For the Appellant : Mr. Dilip Kumar Niranjana, Adv.
For the ROC : Ms. Sweety Kumar, AROC
For the IT Dept. : Ms. Easha Kadian, Standing Counsel

MEMO OF PARTIES

M/S EXXIM INVESTMENTS AND ACQUISITIONS PRIVATE LIMITED

21, SHANTI KUNJ MAIN,
CHURCH ROAD,
VASANT KUNJ,
NEW DELHI- 110070.

.....APPELLANT NO. 1

MS. NEHA CHAWLA

D/O- LATE SOHEL CHAWLA,
R/O- D1/22, 2ND FLOOR,
VASANT VIHAR-I,
NEW DELHI- 110057.

.....APPELLANT NO. 2

MS. AYESHA RAJ

D/O- LATE SOHEL CHAWLA,
R/O- TH-310B, THE LABURMAN,
SHUSHANT LOK,
PHASE-I, GURUGRAM,
HARYANA- 122009.

.....APPELLANT NO. 3

VERSUS

REGISTRAR OF COMPANIES

NCT OF DELHI & HARYANA,
4TH FLOOR, IFCI TOWER,
61, NEHRU PLACE,
NEW DELHI- 110019.

...RESPONDENT NO. 1

ORDER

PER – DR. DEEPTI MUKESH, MEMBER (JUDICIAL)

1. The present appeal is filed by M/s Exxim Investments and Acquisitions Private Limited (for brevity the 'Company') through and by its directors, under Section 252(3) of the Companies Act, 2013 (for brevity 'the Act') against the order of striking off the name of the company, passed by the respondent under Section 248 (1) of the Act, issued vide notification no. ROC/DELHI/248(5)/STK-7/2879 dated on 30.06.2017 by Registrar of Companies, the respondent herein.

2. The appellant states that, the company was incorporated as a Private Limited Company with the Registrar of Companies, NCT of Delhi and Haryana under the Companies Act, 1956 on 14.06.1994 with CIN U74899 DL1994 PTC059628, having its registered office situated at 21, Shanti Kunj Main, Charch Road, Vasant Kunj, New Delhi- 110070, within the jurisdiction of this Tribunal.
3. The Authorized Share Capital of the company is Rs. 50,00,000/- divided into 5,00,000 equity shares of Rs. 10/- each. The issued, subscribed and paid up share capital of the Company is Rs. 24,04,200/- divided into 2,40,420 equity shares of Rs. 10/- each, as per the Master Data Annexed.
4. The main objects of the company are:
- (a) To carry on the business to subscribe for, acquire, hold and sell shares, share stocks, debenture, debenture stocks, bonds, mortgage, obligations, securities of any kind issued or guaranteed by any company (body corporate under-taking) of whatsoever nature and however constituted or carry on the business and to subscribe for acquire, hold and sell shares, debenture and debenture stocks and debenture bonds, mortgages, obligations and other securities issued or guaranteed by any Government Sovereign ruler, commissions, trust, Municipal, local or*

other authority or body of whatsoever nature, whether in India or elsewhere.

(b) And other main objects.

5. The Respondent herein had issued Public notice bearing No. ROC/DELHI/248/STK-5/721 dated 27.04.2017. Consequently, Appellant's name was struck off vide notice bearing No. ROC/DELHI/248(5)/STK-7/2879 dated on 30.06.2017 (Company's name appearing at Sl. No. 6272) whereby name of 22864 companies have been struck off w.e.f. 07.06.2017 from the Registrar of Companies.
6. As per the ROC, Appellant had not filed its Financial Statements and Annual Returns for the Financial Years 2014-15, 2015-16, 2017-18 and 2019-20 thereby giving rise to the surmise that the business of the company was not in operation. Consequently, the name of the company was struck off in terms of provisions of Section 248 of the Companies Act, 2013 read with Rule 7 and Rule 9 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.
7. The Appellant has brought forward the following documents about it being in operation and functional during the period of striking off:
 - i. The Copies of Audited Financial Statements of the company for the period from F. Y. 2013-14 to 2019-20. The Balance Sheet as on 31.03.2017 reflects Assets in form of Tangible Assets of Rs. 8,57,272/-, Current Assets in form of Cash and Cash Equivalentents of Rs. 2,42,529/- and Revenue from

Operations of Rs. 1,92,350/-. The Revenue from Operations of Rs. 1,93,695/-, as on 31.03.2018 is also reflected.

- ii.** The Copy of Sale Deed executed on 09.10.1995 by M/s Exxim Investments and Acquisitions Pvt. Ltd as lessee for the agriculture land measuring 2 bigha, 06 biswas, bearing M. No. 43, Killa No. 6/3 min (1-15), 7/2 min (0-11), situated at Village- Mehrauli, Tehsil- Mehrauli, New Delhi, for a sum of Rs. 4,63,000/-.
 - iii.** The Copy of Sale Deed executed on 09.10.1995 by M/s Exxim Investments and Acquisitions Pvt. Ltd as lessee for the agriculture land measuring 2 bigha, 08 biswas, bearing M. No. 43, Killa No. 17 min, situated at Village- Mehrauli, Tehsil- Mehrauli, New Delhi, for a sum of Rs. 4,43,500/-.
 - iv.** The Copies of Bank Statements of the Company in HDFC Bank for the period 22.04.2013 to 15.04.2016 showing various transaction details of the Company and reflecting closing credit balance of Rs. 27,896.67 as on 15.04.2016.
 - v.** The Copies of Income Tax Returns for the Assessment Years 2019-20 and 2020-21.
- 8.** ROC has filed its reply on 22.02.2021 and stating that they have no objection, if the name of company is restored in the Register of Companies, subject to appellant filing all its pending statutory

documents with the Registrar of Companies till date along with the requisite late filing fee as prescribed under the Companies Act, 2013.

- 9.** The Income Tax Department has filed reply on 25.02.2021, in which it has been submitted that the company has filed its Income Tax Returns for the A.Y. 2012-13, 2013-14, 2014-15 and 2019-20. It further states that as per the details found on NMS/AIR, a total demand of Rs. 23,434/- for the A.Y. 2012-13 is outstanding demand against the appellant-company and there are no pending cases against the company and no cash deposits have been made by the company in the period of demonetization.
- 10.** The grounds contemplated under section 252 of Companies Act, 2013, are that the company was carrying on business or was in operation at the time of striking off its name or where it appears “just” to the Adjudicating Authority that the name of the company is to be restored to the Register of Companies and the Section 252(1) further contemplates that one of the above three conditions are required to be satisfied before exercising jurisdiction to restore the company to its original name on the register of the Registrar of Companies.
- 11.** The appellant has submitted sufficient evidence that it has been in operation during the period preceding strike off, therefore, it could not be termed as a defunct company as per Section 252 of the Act. Thus, taking into consideration the provisions of Section 252(1) of the Companies Act, 2013, which vests this Tribunal with a discretion where the Company,

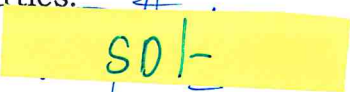
whose name has been struck off, and such Company is able to demonstrate that it is just to do so, can restore the name of the Company, in the Register and in the interest of all stakeholders, including the Appellant itself, who seeks restoration of the name of the Company in the register maintained by Registrar of Companies, the company deserve to be restored.

12. Accordingly, this appeal is allowed. The Public Notice of Registrar of Companies, striking off the name of the company, is hereby declared illegal and set aside. The restoration of the company's name to the Register of Registrar of Companies is ordered subject to its filing of all outstanding documents with proper filing fees along with additional fees required under law and completion of all formalities, including payment of any late fee or any other charges which are leviable by the respondent for the late filing of statutory returns, and also subject to payment of Rs. 25,000/- to be paid to Prime Minister's Relief Fund. The name of the Appellant Company shall then, as a consequence, stand restored to the Register of the Registrar of Companies, as if the name of the company had not been struck off in accordance with Section 248(1) of the Companies Act, 2013.

13. The Appeal stands allowed and disposed of in the above terms.

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


SUMITA PURKAYASTHA
MEMBER (T)


DR. DEEPTI MUKESH
MEMBER (J)

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