

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 220**

**Company Appeal-22/252/2023**

**IN THE MATTER OF:**

**Asra Infotech Pvt. Ltd.**

...

**Appellant/Petitioner**

**Versus**

**RoC**

...

**Respondent**

**Under Section: 252 (1)**

**Order delivered on 02.07.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH**  
**HON'BLE MEMBER (T)**

**PRESENT:**

**For the Appellant** : CS Reetika Kwatra

**For the IT Dept.** : Mr. Sanjay Kumar, Ms. Easha; St. Counsels

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

The name of the appellant company could be struck off from the Register of Companies, as it was not carrying any business for three years prior to the date of order of striking off passed by RoC i.e. 20.04.2022.

However the Ld. Counsel for the Appellant has pressed the present appeal on the ground that it has certain outstanding liabilities, mentioned in para 5 of the appeal, which reads thus:-

5. The applicant company has certain outstanding liabilities to be paid off as on the current date. A comprised statement of the same is produced herewith for the ready reference of the Hon'ble NCLT:

S.No.	Nature of liability	Amount outstanding as on March 31, 2022 (In Rs.)
1.	Unsecured Long Term Borrowings –  -From Directors	   1,21,89,253
	-From persons other than Directors	84,25,000
2.	Sundry Creditors	25,93,315
3.	Audit Fees Payable	1,10,500
4.	Other liabilities	1,65,00,000
<b>Total</b>		<b>3,98,18,068</b>  <b>(Rupees Three Crores Ninety Eight Lakhs Eighteen Thousand and Sixty Eight only)</b>

The applicant company would be able to pay off these liabilities only once the company is revived by the Hon'ble NCLT and its name is restored on the register of companies maintained by the Registrar of Companies.

It is also the plea raised in the appeal that even the Income Tax Department has also issued notices to the appellant asking it to meet its statutory requirements. In para 2 of the appeal, the appellant has averred that he has given advance amount of Rs. 2,15,00,000 to purchase industrial plot bearing No. INS-02, Sector CHI V of an area of 1.5 acres. According to him, the advance amount paid is Rs. 2,15,00,000. In her submission, the appellant is in litigation qua the aforementioned property in OMP (Enf.) (Comm.) 145/2017, CCP(O) 26/2023, Ex. Applications (OS) 118/2022, 335/2022, 337/2022, 3101-3102/2022, 427-428/2023, pending before Hon'ble Delhi High Court.

He relied upon the Judgment of Hon'ble Delhi High Court in M/s Kesinga Paper Mills Pvt. Ltd. vs. Ministry of Corporate Affairs (Company Petition No. 406 of 2009) to espouse that the company being in litigation is sufficient ground to restore its name to the Register of Companies. The para 10 of the order reads thus:-

*“10. Further, when a litigation is pending by or against a company, it is only proper that its name be restored to the Register to enable the matter to be carried to its conclusion, as has been held by this Court in M/s Indian Explosives Ltd. vs. Registrar of Companies, CP. No. 185/2008, decided on 21<sup>st</sup> April, 2010.”*

Ld. Counsel appearing for the RoC submitted that since the appellant failed to file the return and required financial statement for a period of two years preceding the date of issuance STK-7, there would be no justification to restore its name to Register of Companies. Nevertheless, it is also the stand taken in the reply filed by RoC that this Tribunal may take its own view regarding restoration of the name of the appellant to Register of Companies, but if any such direction is issued to RoC, the company should be directed to comply with the provisions of the Companies Act. In view of the aforementioned, particularly, following the aforementioned Judgment of Hon'ble Delhi High Court we allow the appeal and direct the name of the appellant company to be restored in the Register of Companies, within 30 days from the date of filing of INC-28. The company shall file all pending annual returns/balance sheets/financial statements within one week from the date of submission of INC-28 and shall also pay the requisite fee/additional fee/penalty in terms of the Companies Act, 2013. The appellant shall also pay an amount of Rs. 25,000/- as cost in Prime Minister's National Relief Fund.

**The appeal stands disposed of.**

**Sd/-  
(SUBRATA KUMAR DASH)  
MEMBER (T)**

**Sd/-  
(ASHOK KUMAR BHARDWAJ)  
MEMBER (J)**