

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

COMPANY APPEAL NO. 189/252/ND/2020

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

IN THE MATTER OF

M/s. PRALINES EXPORTS PRIVATE LIMITED

Having Registered Office at:

R-899/8, main bazar, Mehrauli, New Delhi
(south) Delhi 110030

.... Appellant No.1

Mr. ARVIND KUMAR JAIN

163/B, Sainik Farms, Mehrauli,
New Delhi 110030

.... Appellant No.2

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. UNION GOVERNMENT OF INDIA

Ministry of Finance, Department of Revenue,
Through Department of Income Tax,
C/O Principal Chief Commissioner of Income Tax,
I.P. Estate, New Delhi-110002

...Respondent No.2

Order pronounced on: 04.07.2024

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES

For the Appellant: Mr. Harbeer S Chadha, Adv.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Petition has been filed by the Director of the Appellant Company namely Mr. Arvind Kumar Jain 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. Pralines Exports Private Limited was incorporated on 22.07.1982 and the name of the Company was struck off via notice no.- ROC-DEL/248(5)/STK-7/4865 on 08.08.2018 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 "To carry on the business of manufacturers, dealers, importer and exporters of readymade garments, all such articles of wearing apparel, house-hold domestic and of cotton silk, artificial silk and woolen goods and clothes an fabrics of all kind and to export import fabricate, buy, sell and otherwise deal in hosiery, textile, fabric yarn, handicrafts, carpet: antiques, leather works, synthetic fibers, drapers and furnishers in a. their respective branches and to act as export house ". The Authorized Share Capital of the company was Rs. 15,00,000 /-. The Paid up Share Capital of the company was Rs. 5,66,000 /-.

4. It is submitted that the name of the Appellant Company has been struck off by the Registrar of Companies due to defaults in statutory compliances, namely, failure to file Financial Statements & Annual Return for the period Ended 31st March 2010 to 31st March 2018.

5. It is submitted that the financial accounts could not be prepared in time for the reason that the main director of the company Mr. Ravi Gautam who alongwith his family held a majority of the shareholding of this company had suddenly died on 25.01.2011. So after his death, the whole work came to standstill since the Board of the company was left with only one director with a very small shareholding in the company. But now presently, the shareholders have joined hands together and managed to complete the annual accounts and have got them duly audited upto 31st March, 2018. The company has now already filed its latest tax return with the Income Tax Department for assessment year 2018-19.
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. 189/252/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/-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

Sd/-

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