

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI COURT - IV

Appeal No. 40/252/ND/2020

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

AND

IN THE MATTER OF:

KALRA INFRADEVELOPERS PRIVATE LIMITED AND ORS.

.....APPELLANTS

VERSUS

**REGISTRAR OF COMPANIES, NCT OF DELHI AND HARYANA
AND ANR.**

...RESPONDENTS

Order Pronounced on: 17.11.2020

CORAM:

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

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

For the Appellant

: Ms. Megha Aggarwal, Adv.

For the ROC

: Ms. Sweety Kumar, AROC

For the IT Dept.

: Ms. Vibhooti Malhotra,
Mr. Shailendra Singh

MEMO OF PARTIES

KALRA INFRADEVELOPERS PRIVATE LIMITED

H. No. 978,

WARD-7, MEHRAULI,

NEW DELHI- 110030.

.....**APPELLANT NO. 1**

MR. ANSHAY KALRA, EX-DIRECTOR

H. No. 978,

WARD-7, MEHRAULI,

NEW DELHI- 110030.

.....**APPELLANT NO. 2**

MR. HARISH KALRA, EX-DIRECTOR

H. No. 978,

WARD-7, MEHRAULI,

NEW DELHI- 110030.

.....**APPELLANT NO. 3**

VERSUS

REGISTRAR OF COMPANIES

NCT OF DELHI AND HARYANA

4TH FLOOR, IFCI TOWER,

61 NEHRU PLACE,

DELHI - 110019.

.....**RESPONDENT NO.1**

COMMISSIONER OF INCOME TAX

CENTRAL REVENUE BUILDING,

ITO, NEW DELHI- 110002.

.....**RESPONDENT NO.2**

ORDER

PER – DR. DEEPTI MUKESH, MEMBER (JUDICIAL)

- 1.** The present appeal is filed by M/s Kalra Infradevelopers Private Limited (for brevity the ‘Company’) through and by its directors, under Section 252 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 bearing No. ROC/DELHI/248(5)/STK-7/4865 dated on 08.08.2018 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 03.03.2014 with CIN U70102 DL2014 PTC265724, having its registered office situated at H. No. 978, Ward-7, Mehrauli, New Delhi, South Delhi DL- 110030, within the jurisdiction of this Tribunal.
- 3.** The Authorized Share Capital of the company is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/- each. The issued, subscribed and paid up share capital of the

Company is Rs. 1,00,000/- divided into 10,000/- equity shares of Rs. 10/- each, as per the Master Data Annexed.

4. The main objects of the company are:

a) To purchase, acquire, take on in any other such lawful manner any land, buildings and structures and to develop the same and dispose of or maintain the same and build township, markets, commercial complex with hall or related conveniences thereon and to equip the same or any part of the other building or any related amenities or conveniences such as drainage.

b) To act as commission agents and dealers in farm land building whether commercial, residential whether meant for purchase, sale, resale or let out.

c) And other main objects.

5. The Respondent herein had issued Public notice bearing No. ROC/DELHI/248/STK-5/2018/2912 dated 18.06.2018. Consequently, Appellant's name was struck off vide notice bearing No. ROC/DELHI/248(5)/STK-7/4865 dated on 08.08.2018 (Company's name appearing at Sl. No. 10446) whereby name of 24280 companies have been struck off w.e.f. 08.08.2018 from the Registrar of Companies.

- 6.** As per the ROC, Appellant had not filed its Financial Statements and Annual Returns since its inception, 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. 2016-17, 2017-2018 and 2018-19. The Balance Sheet as on 31.03.2018 reflects Assets in form of Tangible Assets of Rs. 8,34,696.00 and Cash and Cash Equivalents of Rs. 47,44,852.15. Current Assets in form of Inventories in 2017 of Rs. 23,80,417.00 and Cash and Cash Equivalents of Rs. 13,26,442.00. Revenue from Operations in 2016-17

of Rs. 79,81,690.00 and during 2017-18 of Rs. 3,70,70,858.80.

- ii.** The copies of Bank Statements of the Company in HDFC Bank for the period 22.08.2016 to 01.10.2019 showing various transaction details of the company and reflecting closing credit balance of Rs. 10,73,135.55 as on 08.08.2018.
 - iii.** Copies of Income Tax Returns for the Assessment Years 2018-19 and 2019-20. The tax paid by the company in A.Y. 2018-19 is Rs. 3,37,326/-.
- 8.** ROC has filed its reply 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 not filed any reply.
- 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.

Sd/-
SUMITA PURKAYASTHA
MEMBER (T)

Md Saddam

Sd/-
DR. DEEPTI MUKESH
MEMBER (J)