

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**NEW DELHI BENCH**

**COURT-VI**

**Appeal No.1250/252/ND/2018**

**IN THE MATTER OF:**

Assistant Commissioner Income Tax Circle 15(1) (New Delhi)

.....Petitioner

VERSUS

The Registrar of Companies

(For Revival of M/S Levana Impex)

Mr. Ranjeet Kumar Singh

Mr. Akhilesh Sharma

.....Respondents

**Coram:**

**(Dr.)P.S.N PRASAD, HON'BLE MEMBER (J)**

**DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)**

For the Appellant (ROC): Mr M. Yadubhushana Rao, AROC

For the IT: Mr. Puneet Rai, Adv.

*Judgment delivered on: **05.09.2019***

## **ORDER**

**(Dr.) P.S.N PRASAD, HON'BLE MEMBER (Judicial)**

1. This petition has been filed by Income Tax Authority invoking the provisions of Section 252 of the Companies Act, 2013 for restoration of the name of the Respondent No. 2 Company, viz Assistant Commissioner Income Tax Circle 15(1) (New Delhi), in the Register of Companies maintained by the ROC, respondent no.1.
2. Service was duly effected on the respondent company and its Directors. Other than the AROC, none appeared on behalf of the other respondents to oppose the prayer made by the petitioner. The AORC submitted that they have no objections to the prayer of the Appellant being granted by this Tribunal.
3. Vide Proceedings initiated by the Ministry of Corporate Affairs, through the office of the ROC, several names of companies were struck off for want of statutory filings. Respondent No.2 Company, which had also not filed any Returns or Financial Statements was duly struck off from the Register of Companies.
4. Invoking the provision of section 252 of the Act, the Income Tax Dept. prays for its restoration in order to carry out proceedings initiated against them. It is submitted by the department that the Assesse

Company has escaped assessment for the income against cash deposits of Rs. 11,67,500/-.


5. It is further submitted by the applicant that as per the information obtained from ITS data the Respondent has deposited cash of Rs. 11,67,500/- during the AY 2011-12.
6. The appellant has issued notice dated 28.03.2018 under section 148 of the IT Act for AY 2011-12 to the respondent company for initiating assessment proceedings to assess the income not disclosed by the company.
7. On further enquiry the Ld. Assessing officer came to know that the name of the Respondent Company has been "Struck Off" by the Registrar of Companies.
8. Ld. Counsel for the Income Tax submits that the aforesaid fact necessitate restoration of the name of the Respondent Company in the Register of Companies to proceed further in accordance with law. In view of the grounds raised by the applicant, being an aggrieved person, the prayer can be entertained u/s 252(3) of the Code. In view of the grounds raised by the Appellant which remain unrebutted, their prayer merits consideration.

9. The petition is therefore allowed. The ROC is directed to restore the name of the Respondent Company in their Register and also consider to proceed to take such other and further penal action against the respondents in accordance with the statutory provisions.
10. We, however, make it clear that this Bench has only directed restoration of the name of the appellant company in the Register of Companies maintained by the Roc on the basis of averments made in the petition and have in no way endorsed or adjudicated about the Applicant's entitlement to recover any amount as tax etc. which shall be adjudicated by the Department subject to the laws of limitation governing such recoveries. Charges involved in seeking restoration of the company's name with the office of the ROC shall be borne by the applicant. Petition is disposed off in terms of the above. Compliance be made with the ROC within 30 days.



(DR. V.K. SUBBURAJ)

MEMBER (T)



(Dr. P.S.N PRASAD)

MEMBER (J)