

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH - VI
Appeal No.1262/252/ND/2018

IN THE MATTER OF:

**INCOME TAX OFFICE WARD 4(1)
CENTRAL REVENUE BUILDING,
I.P.ESTATE NEW DELHI-110002**

...Appellant

VERSUS

**1. THE REGISTRAR OF COMPANIES,
4th Floor, IFCI Towers,
Nehru Place, New Delhi – 110019.**

...Respondent 1

**2. B L SECURITY AND LABOUR SERVICES PVT. LTD.,
Jaip Line Autoline,
201, Prem Gali Punja,
Sharif Market, Kashmere Gate,
Delhi-110006**

...Respondent 2

**3. VEER PAL SINGH BHADANA,
C-40/G-3, Shalimar Garden-II,
Ghaziabad-201005,U.P.**

...Respondent 3

**4. LATIKA BHADANA,
C-40/G-3, Shalimar Garden-II,
Ghaziabad-201005,U.P.**

...Respondent 4



CORAM:

DR. P.S.N. PRASAD, MEMBER(JUDICIAL)

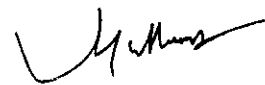
DR. V. K. SUBBURAJ, MEMBER (TECHNICAL)

PRESENT- Ms. Lakshmi Gurung, Standing Counsel for IT Dept.
Mr. M. Yadhubhushana Rao, for ROC.

ORDER

Per Dr. V. K. Subburaj (Member Technical)

1. This appeal has been filed by Income Tax Authority invoking the provisions of Section 252 of the Companies Act, 2013 ("the Act") for restoration of the name of the Respondent No. 2 company, viz M/S BL Security and Labour Services Pvt Ltd, in the Register of Companies maintained by the Registrar of Companies ("RoC"), Respondent no.1.
2. Service was duly effected on the Respondents. Other than the RoC, none appeared on behalf of the other Respondents to oppose the prayer made by the Appellant. The RoC 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 names of several companies were struck off for want of statutory filings. Respondent No.2, 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 Respondent 2. As per averments, information is received from NMS/ITD software that the respondent company has received contractual payments, liable for TDS under Section 194C of the Income Tax Act, 1961 ("I.T. Act") amounting to Rs. 25,47,955/- during the financial year 2010-11 (relevant year for A.Y. 2011-12).

5. The respondent company did not file its ITR for A.Y. 2011-12. Letter dated 01.08.2013 was sent to the respondent company asking it to furnish response to the information. However, no reply was received from the respondent company. As per the provisions of Section 139 of the I.T. Act, every company is mandatorily required to file its return of income within the prescribed time in the prescribed manner. Thus, the company has violated the provisions of the Income Tax Act by not filing the ITR.



6. As the respondent did not file its ITR and did not disclose fully and truly all material facts necessary for assessment, the Assessing Officer has reason to believe that undisclosed income of estimated amount of Rs.25,47,955/- has escaped assessment within the meaning of section 147/148 of the I.T. Act and has not been brought under tax for the A.Y. 2011-12. Thus, prima facie, there appears tax evasion which requires action in accordance with law.
7. Therefore, notice dated 29.03.2018 under Section 148 of the I.T. Act for the A.Y. 2011-12 has been issued. The case of the respondent company has been re-opened under Section 147 of the I.T. Act for assessing the aforesaid undisclosed transactions in the hands of the company.
8. Clearly it is a case of tax evasion by concealing business income and the said proceedings for assessment of income of the respondent company for A.Y. 2011-12 are pending and getting time barred by limitation on 31.12.2018 as per the provision of Section 153(2) of Income Tax Act, 1961 (effective from 01.06.2016).



9. On perusal of MCA website, the appellant has come to know that the said respondent company has been "struck off" by ROC vide Form No. STK-7 dated 01.09.2017. (Company's name appearing at SL. NO. 3059), seriously affecting the assessment and recovery proceedings. For framing assessment and for recovery of the taxes due and for any further consequential proceedings against the company under the I.T. Act, it is just and equitable and in public interest, that the name of the respondent company be restored to the register of companies as if the name of the company had not been struck off from the register of companies.

10. In view of the grounds raised by the Appellant which remain un rebutted, their prayer merits consideration. The appeal is therefore allowed. The RoC is therefore directed to restore the name of Respondent 2 in its register and also proceed to take such other and further penal action against the respondents in accordance with the statutory provisions.

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(DR. V.K. SUBBURAJ)
Member (Technical)

-sd-
(DR. P.S.N.PRASAD)
Member (Judicial)

Deepak

Income tax Officer, Ward 4(1) New Delhi
Appeal No. 1262/252/ND/2018