

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT - III

Appeal No.903/252/ND/2018

IN THE MATTER OF:

INCOME TAX OFFICER, WARD 22(4), NEW DELHI

...Appellant

VERSUS

1. REGISTRAR OF COMPANIES

NCT of Delhi and Haryana
Office at: 4th Floor, IFCI Tower,
61, Nehru Place,
New Delhi – 110019

...Respondent No. 1

2. M/S SYNERGY ADVERTISING PVT. LTD.

Shop No.5, CSC-1, DDA Market,
Pocket H-32, Sector-03, Rohini,
New Delhi-110085

...Respondent No. 2

ALSO AT:

G-18, Plot No.H-2, Apra North Ex Plaza,
Netaji Subhash Place,
Pitampura, New Delhi-110034

3. ANISH GOYAL

2263/68, Raghunandan,
Naya Bazar, New Delhi-110006

...Respondent No. 3

4. ANAND JINDAL

G-18, Netaji Subhash Place,
Pitampura, New Delhi-110034

...Respondent No.4

Order Delivered on: 28.02.2023

CORAM:

SHRI. BACHU VENKAT BALARAM DAS, MEMBER, (JUDICIAL)

SHRI. ATUL CHATURVEDI, MEMBER, (TECHNICAL)

PRESENT-

For the Applicant: Mr. Puneet Rai, Senior Standing Counsel
alongwith Ms. Madhavi Shukla,
Mr. Ashvini Kumar, Junior Standing Counsels
For the RoC : Mr. Ssaaurabh Indura, Company Prosecutor

ORDER

PER: SHRI ATUL CHATURVEDI, MEMBER, (TECHNICAL)

1. This appeal has been filed by Income Tax Authority, invoking the provisions of Section 252(1) read with section 252(3) of the Companies Act, 2013, for restoration of the name of the Respondent No. 2 Company, M/S Synergy Advertising Pvt. Ltd, in the Register of Companies, maintained by the Registrar of Companies ("ROC"), Respondent No.1.
2. Service of notice was duly effected on the Respondents. Except the ROC, none appeared on behalf of the other Respondents. Therefore, this Tribunal directed to make substituted service of notice by publication in the newspapers. In compliance of said order, service has been affected through paper publication in the newspaper namely Financial Express (English), Delhi Edition and Jansatta (Hindi), Delhi Edition on 16.04.2021 and the applicant has also filed an affidavit of service along with proof of service dated 16.04.2021. Despite service and paper

publication, none appeared on behalf of the other Respondents to oppose the prayer made by the Appellant, on any of the dates of hearing.

- 3.** The name of the Respondent no. 2 was struck off from the register of companies on 08.08.2018 vide Form STK-7.
- 4.** Invoking the provision of Section 252 of the Act, the Income-Tax Department prayed for its restoration in order to carry out proceedings initiated against Respondent No. 2. As per the Information collected and received by the Income Tax Department, the Income Tax Return filed by the Respondent Company for Assessment Year 2011-12 disclosed a miniscule turnover of Rs. 12,450/- with nil income despite having made huge deposits in its bank accounts. The Respondent Company has intentionally avoided furnishing true and complete particulars of these financial transactions thereby rendering the Company liable for consequences under the Income Tax Act, 1961. Accordingly, proceedings were initiated against the Respondent Company and notice dated 31.03.2018 under Section 148 of Income Tax Act, 1961 was issued against the Assesse/Respondent Company for the Assessment Year 2011-12.
- 5.** As per the Demand Notice dated 09.05.2019, there is an outstanding demand of Rs. 15,37,300/- against the Respondent Company.
- 6.** The Grievance of the Income Tax Department is that the name of the Respondent Company had been struck off by the ROC thus, seriously affecting the recovery of Respondent Company's tax liabilities.

Therefore, for recovering the tax dues and for any further consequential proceedings against the company under the Income Tax Act, 1961, it is just and equitable and in public interest that the name of the Respondent Company be restored in the register of companies, as if the name of the company had not been struck off from the Register of Companies.

- 7.** Ld. Counsel for the Income Tax submitted that the aforesaid facts 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 Appellant, being an aggrieved person, their prayer can be entertained u/s 252 of the Companies Act, 2013.
- 8.** The Respondents despite notice and paper publication has not appeared before us and in view of the grounds raised by the Appellant, which remain unrebutted, the prayer of the Appellant 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 action against the Respondents in accordance with the statutory provisions.
- 9.** We, however, make it clear that this Bench has only directed restoration of the name of the Respondent No. 2 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 Appellant's entitlement to recover any amount as tax etc. which shall be adjudicated by the Department and the Appellate Authorities,

subject to the laws of limitation governing such recoveries. The appeal is disposed of in terms of the above. Compliance be made with the ROC within 30 days.

SD/-

(ATUL CHATURVEDI)

MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)

MEMBER (JUDICIAL)