

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI**  
**BENCH - VI**  
**Appeal No.1220/252/ND/2018**

**IN THE MATTER OF:**

**INCOME TAX OFFICE WARD 19(2)  
CENTRAL REVENUE BUILDING, I.P. ESTATE,  
NEW DELHI**

...Appellant

**VERSUS**

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

...Respondent 1

**2. M/S ORGANIC BIOFARM PVT. LTD.,  
7767/A-1, Ram Nagar,  
New Delhi-110055**

...Respondent 2

**3. SHIV PRATAP SINGH,  
7767/A-1, Ram Nagar,  
New Delhi-110055**

...Respondent 3

**Order Delivered on:09.08.2019**

**CORAM:**

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

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

PRESENT- Ms. Easha Kadian, Counsel for IT Dept.

Mr. Yadhubhushana Rao, for ROC

Income tax Officer, Ward 19(2) New Delhi  
Appeal No. 1220/252/ND/2018

1



**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 Organic Biofarm 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 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 Respondent 2. As per averments, the Revenue through NMS/ITD Software, information from AIR/CIB statements and Individual Transaction Statements(ITS) is it observed that the respondent company has deposited cash aggregating to Rs. 2,00,000/- or more in a banking company during the financial year 2010-11, relevant to A.Y. 2011-12.
5. The respondent company had not filed its ITR for A.Y. 2011-12. Letter dated 22.02.2018 was issued to the respondent company requesting it to furnish response. However, no response has been received. 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 company did not file its ITR and did not disclose fully and truly all the material particulars for assessment, the Assessing Officer has reason to believe that an estimated amount of at least Rs. 2,00,000/- has escaped assessment within the meaning of section 147/148 of the IT Act and has not been brought un-

3



der tax for the A.Y. 2011-12. As per the provisions of sub clause (a) to Explanation 2 of section 147 of IT Act, 1961, since the respondent company has not furnished the return of income, it shall be deemed that income chargeable to tax has escaped assessment. The escapement of income is clearly on account of failure on the part of the respondent company to furnish its return of income.

7. Therefore, notice dated 30.03.2018 under section 148 of the IT Act for the A.Y. 2011-12 has been issued to the respondent company by post as well as by email. The case of the respondent company has been re-opened under section 147 of the IT Act for framing the assessment order, for recovering the taxes due and for any further consequential proceedings against the company.

8. 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 provisions of section 153(2) of Income Tax Act, 1961 (effective from 01.06.2016).

9. On perusal of MCA website, appellant has come to know that the said respondent company has been "struck off" by ROC, vide Form STK-7 dated 30.06.2017. (Company's name appearing at Sl.

No.14062), seriously affecting the assessment and recovery proceedings. For framing the assessment order, for recovering the tax dues 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.

*-sd-*  
**(DR. V.K. SUBBURAJ)**  
**Member (Technical)**

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

Deepak

Income tax Officer, Ward 19(2) New Delhi  
Appeal No. 1220/252/ND/2018