

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **21.06.2024** THROUGH VIDEO CONFERENCING

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**PRESENT:** HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**APPLICATION NUMBER** :  
**PETITION NUMBER** : CP(CA)/11(CHE)/2024  
**NAME OF THE PETITIONER(S)** : K S Gopal  
**NAME OF THE RESPONDENTS** : Roc, Chennai  
**UNDER SECTION** : Sec 252(3) of Ca, 2013

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**ORDER**

Present: None for the Petitioner.

None for the Respondent.

Vide order pronounced in the Open Court, the petition is allowed and the Company is restored subject to cost of Rs. 2,00,000/-.

File be consigned to records.

**Sd/-**

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

**Sd/-**

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**CP(CA)/11/CHE/2024**

(Under Section 252(3) of the Companies Act, 2013)

*In the matter of IMTEK Engineering Private Limited*

**Mr. K.S. GOPAL,**  
**SHAREHOLDER OF M/S. IMTEK ENGINEERING PRIVATE LIMITED,**  
No.6, Jambuli Mills Colony Road,  
R.V. Nagar Post Kodungaiyur,  
Chennai-600 118

*... Appellant*

-Vs-

**REGISTRAR OF COMPANIES, CHENNAI**  
Block No.6, B Wing  
2<sup>nd</sup> Floor, Shastri Bhavan,  
26, Haddows Road,  
Chennai – 600 006

**THE DEPARTMENT OF INCOME TAX**  
Through Principal Chief Commissioner  
Of Income Tax, Chennai  
121, M.G. Road, Nungambakkam,  
Chennai, Tamil Nadu – 600 034

*... Respondents*

*Order pronounced on 21<sup>st</sup> June, 2024*

**Present:**

*For Appellant: Praveen R, Advocate*

*For Respondent: Avinash Krishnan Ravi, Advocate*

**CORAM**

**SANJIV JAIN, MEMBER (JUDICIAL)**  
**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

**ORDER**

**(Hearing Conducted through VC)**

This Appeal has been filed by **Mr. K.S.GOPAL**, in the capacity as a Shareholder/Director of the Company namely, **M/s. IMTEK ENGINEERING PRIVATE LIMITED** under Section 252(3) of the Companies Act, 2013, being aggrieved against the order of strike off carried out by the 1<sup>st</sup> Respondent namely, the **Registrar of Companies, Chennai (hereinafter RoC, Chennai)** under Notification dated 05.07.2017 (ROC/CHN/STK-7/1/2017, seeking thereof to restore the name of the Company in the Register maintained by the 1<sup>st</sup> Respondent/RoC.

2. The brief facts of the matter are tabulated below:-

S. No.	PARTICULARS	FACT
a)	Name of Company	M/S. IMTEK Engineering Private Limited
b)	CIN No.	U29130TN1992PTC022006
c)	Date of Incorporation	16.01.1992
d)	Registered Office Address	No. 6, Jambuli Mills Colony Road, V. Nagar Post. Kodungaiyur, Chennai-600051
e)	Reason of Strike Off	Non filing of Financial Statements for the Financial Years 2013-14 to 2016-17
f)	Date of issue of show cause notice STK-5	07.04.2017
g)	Date of Publication of STK-7 in official Gazette	15.07.2017

3. It is stated that, the Appellant is a member and director of IMTEK Engineering Private Limited holding 99% of the shareholdings in the company since 1992. IMTEK Engineering Private Limited was incorporated on 16.01.1992. The main object of the Company is *to manufacture, produce, assemble, erect, install, convert, maintain, repair, service, buy, sell, import, export, fabricate, cast, research and development, distribute, exchange, alter, lease, hire, sell on hire-purchase or on instalment system or otherwise deal in mechanical kigs, fixtures, press tools, moulds, dies, trailors, cranes, conveyers, machine tools, machine components, machine building, machine reconditioning, machinery systems, plants, etc.* Details of the main object are set out in the Memorandum of Association which has been filed along with the typed set of documents.

4. It is stated that the Appellant who oversaw the management and operation of the Company, had to leave the country and move to San Francisco to attend to some family affairs on 24.12.2013. Subsequently the Company ceased to conduct any operations or business. It is averred that, the statutory compliances of the Company were carried out by the accountant of the Company, Mr. Baskar, who was the person

handling the accounts and overseeing filing of statutory compliances of the Company. It is submitted that the income tax returns were filed regularly by the accountant of the Company till the assessment year 2017-2018 but the statutory compliances to be filed before ROC were not complied with by the accountant; the last statutory compliances filed before the RoC was for the financial year 2012-2013. Subsequently, the 1<sup>st</sup> Respondent issued a show cause notice (ROC/CHN/DR/(SK)1/PVT.ACT/SKT-5) dated 07.04.2017 to IMTEK Engineering Private Limited for not carrying on business or operations for the preceding two financial years, and afterward, the name of the Company was struck off by order dated 05.07.2017 (ROC/CHN/STK-7/1/2017).

5. It is stated that, the accountant made an oversight in filing the requisite forms and financial statements before RoC, further the accountant left the company suddenly in the year 2016. The Appellant returned to India on 16.05.2022 and only afterward the fact that the Annual fillings i.e., the Financial Statements and Annual Returns for the period 2013-14 to 2016-17 were not filed before the RoC and the Company was struck off by the 1<sup>st</sup> Respondent was brought to the knowledge of the Appellant.

6. It is stated that, the Company is not currently carrying on its business, the Appellant intends to restart the operations of the Company. It is also averred that the Company has immovable properties in its name and the same shall be used for business operations. The title documents of the immovable property are annexed along with this Application as **Annexure 9**.

7. It is stated that, in the event of revival and restoration of IMTEK Engineering Private Limited name in the register maintained by 1<sup>st</sup> Respondent, the requisite and outstanding statutory documents along with fees, as applicable will be filed.

8. It is stated that, if the present Appeal is not allowed and the name of the Company is not restored in the register of 1<sup>st</sup> Respondent, then its shareholders will suffer irreparable loss and hardship and will be highly prejudiced.

9. Upon notice, the Respondent/RoC has filed the Report. It is stated that, the Appellant's Company was identified by the Respondent Office for action under Section 248 for non-filing of Financial Statements as per the provisions of Companies Act, 2013. It is further stated that, the

Respondent office had sent letters inquiring whether the Company is carrying on its business or in operation under Section 248(1) and Section 248(5) of Companies Act, 2013. Thereafter completing the due procedure, the Respondent finally struck off the Company's name under Section 248(5) of the Companies Act, 2013, vide publication in Official Gazette of India dated 15<sup>th</sup>-17<sup>th</sup> July, 2017 S.No.141.

10. It is stated that, the Company IMTEK Engineering Private Limited filed Financial Statements and Annual Returns with the Registrar of Companies upto 2012-13, thereafter failed to file financial statements and Annual returns. It was the statutory duty of every company and its directors to file the financial statements for every financial year with the RoC. In this case, the company has failed to do so.

11. We have considered the plea of the Appellant and the Respondent/RoC as well. The Appellant is seeking restoration of the name of the Company in the register as maintained by 1<sup>st</sup> Respondent RoC. In order to sustain the said plea, the Appellant has placed the followings as Annexures in the Application typeset:

(i) Copy of Income Tax Returns filed for the FY – 2016-17 **Annexure 6.**

(ii) Copy of the title deeds of assets standing in the name of M/s IMTEK Engineering Pvt Ltd – **Annexure 9**.

12. From the documents annexed along with the Appeal it is seen that the Company owns land in its name. Further, it is averred in the application that the Appellant intends to restart the operations of the Company. Hence, this Tribunal is of the view that it is 'just' to restore the name of the Company in the register maintained by the Respondent – Registrar of Company.

13. Taking into consideration the provisions of Section 252 of the Companies Act, 2013 which vests this Tribunal with discretion to restore the Company whose name has been struck off, keeping in consideration that it is just to do so, we restore the name of the Company in the register. The Appeal is allowed subject to the following directions namely:

- (i) The Registrar of Companies/1<sup>st</sup> Respondent is ordered to restore the original status of the Company viz. **IMTEK Engineering Private Limited** as if the name of the Company has not been struck off from the Register of Companies with resultant and consequential actions like changing the status of Company from "**strike off**" to "**Active**"
- (ii) The Company shall within a period of 30 days from the restoration of the Company's name in the register being maintained by the RoC, the Appellant will file *inter alia* its annual returns and balance sheets as well other compliances statutorily required to be made under the



Companies Act, 2013 for the period from which there has been default with requisite charges/fees as well as additional fee/late charges.

- (iii) That the Restoration of the Company's name is also subject to the payment of cost of ₹2,00,000/- (**Rupees Two Lakhs only/-**), as volunteered by the Appellant, through online payment in [www.mca.gov.in](http://www.mca.gov.in) under miscellaneous fees by mentioning the particulars as "payment of cost for revival of Company".
- (iv) Till all compliances are made by the Company, the Company shall not alienate or dispose of any of its valuable assets.
- (v) It is further observed that by virtue of this order of restoration of the name of Company in the register it will not entitle the Directors of the Company whose names in case have been disqualified by virtue of provisions of Section 164 of the Companies Act, 2013 by the Respondent/RoC automatically to be restored to directorship except in accordance with law.
- (vi) An affidavit of compliance of the aforesaid directions shall be filed by the Appellant within a period of 2 months from the date of this order.
- (vii) Further, this order allowing the Application shall also not circumscribe the power of the 1<sup>st</sup> Respondent to proceed against the Appellant Company and its Directors as mandated for alleged late filing of any forms, documents, returns and such other compliance under the provisions of Companies Act, 2013.

14. This Appeal stands **allowed** on the aforementioned terms.

**-Sd-**

**VENKATRAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**-Sd-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)

*Kishore P*