

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **19.07.2024** THROUGH VIDEO CONFERENCING

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

APPLICATION NUMBER : Comp.Appeal/15/2024

PETITION NUMBER :

NAME OF THE PETITIONER(S) : A M Showkkath Ali

NAME OF THE RESPONDENTS : Roc, Chennai

UNDER SECTION : Sec 248, 252 of CA, 2013

ORDER

Present: Ld. Counsel Shri. Yajura Devi for the Appellant.

None for the Respondent.

Vide order pronounced in the Open Court, the appeal is allowed and the Company namely Avenue Homes and Realtors India Private Limited 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**

CA/15/CHE/2024

Under Section 252 of the Companies Act, 2013

In the matter of **AVENUEHOMES AND REALTORS INDIA PRIVATE LIMITED**

AM Showkkath Ali

Shareholder cum director of

Avenuehomes and Realtors India Private Limited

... Applicant

-Vs-

THE REGISTRAR OF COMPANIES

Shastri Bhavan,

2nd Floor, Haddows Road,

Chennai-600 006

... Respondent

Order Pronounced on 19th July 2024

Present:

For Applicant : Yajura Devi, Advocate

For Respondent : Avinash Krishnan Ravi, Advocate

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

ORDER

(Heard through Hybrid Mode)

This is an Application filed by **Mr. AM Showkkath Ali** in the
capacity of member of **M/s Avenue homes and Realtors India Private**

Limited under Section 252 of the Companies Act, 2013 aggrieved against the order of strike off carried out by the Respondent namely, the Registrar of Companies under Section 248 of the Companies Act, 2013 seeking to restore the name of the Company in the Register maintained by the Respondent/RoC.

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

SR. NO.	PARTICULARS	FACT
a)	Name of Company	M/s Avenuehomes and Realtors India Private Limited.
b)	CIN No.	U45201TN2007PTC101948
c)	Date of Incorporation	15.10.2007
d)	Registered Office Address	H.M.K. Complex, No.19B, Habeeb Nagar, Dindigul Road, Pallapatti, Karur-639 205.
e)	STK-7	09.11.2019
f)	Reason of Strike Off	Non filing of financial statements for the FY of 2015-16, 2016-17, 2017-18 & 2018-19 till the date of struck off.

3. The main object of the Company is to purchase, lease, exchange, rent or otherwise and deal in lands, buildings and any estate or interest

therein and any rights over or connected with lands ...” The details of the main object are set out in the Memorandum of Association which is filed along with the typed set of documents.

4. The reasons for non-filing of statutory financial statements are stated in **para vii, viii & ix** of the Application. It is stated that, the company in 2015 shifted the registered office from Coimbatore to Chennai which led to the default in filing the financial statements and statutory compliances. It is stated that the company had entrusted the statutory compliances to a professional, however post his demise the compliances were left unattended.

5. The Respondent ROC has filed the reply in form of a Report. It is stated that, the company was struck off as the company has not filed the financial statements and annual returns from the FY of 2015-16, 2016-17, 2017-18 & 2018-19 till the date of struck off..

6. It is averred in para 8 of the report that, the reason for revival mentioned in the Application is “The Company has been carrying out the business and is in operation as may be seen in the income tax filings. Further the Company being in the business of building and

selling of properties, has received advances and is duty bound to complete the sale of these properties to its purchasers, which will necessitate the Company to be in active state. The promoters of the Company despite facing certain downfalls in the business due to personal issues, have come together to complete the unfinished contracts, and also run the Company in compliant manner in the forthcoming years.”

7. Further it is stated in para 13 of the report that, the present appeal is filed by Mr. A M Showkkath Ali in the capacity of Shareholder cum director of M/s. Avenuehomes And Realtors India Private Limited. The Appellant in this instant appeal has stated the reason for non- filing of Annual Return with the Registrar of Companies within the stipulated time is that the compliance of the Company was entrusted to a professional, however post his demise, the compliance of the Company was left unattended. Also, during this time, the Directors were also facing personal issues, due to which they were unable to focus on the business. The business was also facing losses and the directors were also, contemplating in handing over the business. The non- filing of the financials has been missed out, as an oversight, due to above cited

reasons and failure to file the financials in timely manner is neither wanton nor willful.

8. Further it is stated in para 14 of the report that, since the Company is struck off, the board of directors cease to exist, so the company cannot be represented by Mr. A M Showkkath Ali, in the capacity of the director. Hence, the petitioners may be directed to change the cause title from Mr. A M Showkkath Ali (Shareholder cum director) to Mr. A M Showkkath Ali, in the capacity of shareholder.

9. Apart from the statements made *Supra*, there are no significant objections raised by the ROC.

10. We have considered the plea of the Applicant Company and the Respondent/RoC as well. The Applicant is seeking restoration of its name in the register maintained by RoC and has placed on record the following documents as evidence:-

- i) Copy of ITR and Financial Statements for the FY 2015-2023
[Annexure 7 Colly]

11. It is seen from the Application that the Applicant has arrayed Mr. A M Showkkath Ali, who is the shareholder of Avenue homes and

Realtors India Private Limited, as Applicant. Further, it is also seen from the Audited Financial Statements that Mr. A M Showkkath Ali has been holding 51% shares in Avenue homes and Realtors India Private Limited. Thus, the objection raised by the Respondent / RoC in this regard is not sustainable.

12. Taking into consideration the provisions of Section 252 of the Companies Act, 2013 which vests this Tribunal with discretion where the Company whose name has been struck off and keeping in consideration that it is just to do so, we restore the name of the Company in the register in the interest of all the stakeholders including members of the Company, its employees as well as the revenue and the Applicant itself who seeks restoration of the name of the Company in the register being maintained by RoC. The Application is allowed subject to the following directions namely:

- (i) The Registrar of Companies/Respondent is ordered to restore the original status of the Applicant Company viz. **M/s Avenuehomes and Realtors India 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 Applicant Company's name in the register being maintained by the RoC, the Applicant/ petitioner will file inter alia all 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) As undertaken by the Ld. Counsel for the Applicant in the hearing today, the restoration of the Company's name is also subject to the payment of cost of **Rs.2,00,000 /- (Rupees Two Lakh Only/-)** through online payment in 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 Applicant 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 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.

13. This Application stands **allowed** on the aforementioned terms.

-Sd-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-
SANJIV JAIN
MEMBER (JUDICIAL)

Vinita Varshini.K