

**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/47/2024
PETITION NUMBER :
NAME OF THE PETITIONER(S) : Assistant Commissioner of Income Tax
NAME OF THE RESPONDENTS : N J Olive Pvt Ltd & 3 Ors
UNDER SECTION : Sec 252(3) of CA, 2013

ORDER

Present: None for the Appellant.

None for the Respondent.

Vide order pronounced in the Open Court, the appeal is allowed and the Company namely N J Olive Pvt Ltd is restored.

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**

Company Appeal/47/CHE/2024

(Under Section 252 (1) of the Companies Act, 2013 r/w Rules 11 & 87A of the NCLT
Rules, 2016)

In the matter of N.J.Olive Private Limited

ASSISTANT COMMISSIONER OF INCOME TAX

Corporate Ward 4 (1),
Room No. 428, 4th Floor
Main Building, AayakarBhavan,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai- 600 034

... Appellant

-Vs-

1.N.J.OLIVE PRIVATE LIMITED

46/73, Pantheon Road,
Egmore, Chennai,
Chennai – 600 017

2.THE REGISTRAR OF COMPANIES

Block No.6,B Wing, 2nd Floor,
Shastri Bhawan,
26, Haddows Road,
Chennai- 600 034.

3. JAINUL ABUDEEN NAJIMULLA

19A, Lal Bagadhur Sasthiri Street,
West Tambaram,
Chennai – 600 059

4. MOHAMED MUSTAFFA JAFFER ALI

12A, New Megazine Puram,
Vysarpadi, Chennai – 600 081

... Respondents

Order Pronounced on 19th July 2024

CORAM

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

For Applicant: Raj Jhabhak, Advocate
For ROC: Avinash Krishnan Ravi, Advocate

ORDER

(Heard through VC)

This is an appeal preferred by the **Income Tax Officer, Corporate Ward-4 (1), Chennai** under Section 252 of the Companies Act, 2013 aggrieved against the order of strike off carried out by the Respondent No.2 (hereinafter R2) 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	N.J.Olive Private Limited
b)	CIN No.	U63030TN2017PTC115031
c)	Date of Incorporation	17.02.2017
d)	Registered Office Address	No.46/73, Pantheon Road, Egmore, Chennai – 600 008
e)	STK-7 Date	04.03.2022

f)	Reason of Strike Off	Non filing of financial statements as per the Companies Act, 2013.
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3. It is stated that the company is not carrying on any business or operation for a period of two immediately preceding financial years. In order to protect the interest of the Revenue and the Government of India, the Appellant has filed the present appeal under Section 252(1) of National Company Law Tribunal Rules, 2016 ('NCLT Rules'), seeking restoration of the name of the Struck off Company on the Register of Companies maintained by 2nd Respondent, in order to enable the Department, since proceedings under the Income Tax Act are pending in this case, to recover the outstanding tax arrears.

4. It is stated that 1st Respondent made the following transaction during the Financial Year 2015-16 relevant to the Assessment Year 2016-17:

- i. Statement filed by authorized dealers sending of foreign remittance of Rs.12,88,63,906/-

- ii. Receipt of remittance by a non-resident or by a foreign company (15CA) of Rs.29,21,27,550/-
- iii. Cash withdrawals (including through bearers cheque) in current account of Rs 2,10,23,046/-
- iv. Statement filed by authorized dealers - sending of foreign remittance of Rs.53,25,139/-
- v. cash deposits (including through bearers cheque) in current account of Rs.2,06,98,500/-
- vi. Purchase of foreign currency of Rs.53,25,139/-
- vii. Statement filed by authorized dealers sending of foreign remittance of Rs.4,92,31,950/-
- viii. Statement filed by authorized dealers sending of foreign remittance of Rs.13,38,18,958/-

5. It is stated that based on the above information, the assessment for the Assessment Year 2018-19 was reopened by issue of notice u/s 148 of the Income Tax Act on 31.03.2022 with the approval of the competent authority. Copies of order u/s 148A(d) dated 31.03.2022 and notice u/s 148 dated 31.03.2022 are annexed as ANNEXURE-3 of the application.

6. It is stated that not restoring the struck off company will result in serious losses to the exchequer and enable the defaulting company to go Scot free.

7. Notice was served to all the Respondents (1 to 4). Affidavit of Service (AOS) has been filed vide SR No.3296 dated 02.07.2024. Only the ROC (Respondent No. 2 herein) entered the appearance and filed Reply / report wherein it stated that the company has not filed Financial Statements as per the provisions of the Companies Act, 2013 since incorporation and thereby failed to follow the statutory compliance as provided under section 92 and 137 of the Companies Act, 2013 and procedural compliance as provided under section 455 of the Companies Act, 2013.

8. It is stated that such action of the Company gave a reason for the Registrar of Companies to believe that the company was in-operative. A notice under Section 248 of the Act, 2013 for striking off the name of the Company from the Register of Companies was given and consequently the name of the company was struck off from the Register of Companies. It was published in the Gazette of India and that all procedures laid

down in Section 248 of the Companies Act, 2013 and Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 were adhered to by the RoC, Chennai. The ROC in the report filed before this Tribunal has not raised any other significant objection.

9. Ld Counsel submitted that, this appeal has been preferred by the statutory authority to protect the interest of revenue to the Government. He submitted that the Company is liable to pay taxes of an amount which can only be ascertained after the revival of the Company.

10. It is stated that notice sent to Respondent No.1 was received with an endorsement "returned insufficient address". Notice was delivered on Respondent No.2 & 3. Notice received un-served qua Respondent No. 4 with an endorsement "returned door locked".

11. Heard the Appeal and perused the documents on record.

12. We are of the considered opinion that this company should be restored to protect the interest of the government. Further the ROC has

not made any objections to restore the company in the register of companies.

ORDER

(i) The Registrar of Companies, Chennai, the respondent herein, is ordered to restore the original status of the Company i.e. **M/s. N.J.OLIVE 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 status of Company from "strike off" to "Active";

(ii) The Appellant is directed to deliver a certified copy of this order with RoC, Chennai within 30 days of the receipt of this order;

(iii) On such delivery and after duly complying with above directions, the Registrar of Companies, Chennai is directed to, on office name and seal, publish the Order in the Official Gazette, and

(iv) This Order is confined to the violations, which ultimately lead to the impugned action of "striking off" of the Company, and it will not come in the way of RoC, Chennai to take appropriate action(s) in accordance with law, other violations/offenses, if any, committed by the appellant company prior to or during the "striking off" period of the company.

(v) The Appellant shall submit a report to the RoC, Chennai furnishing details of the tax assessed and recovered from the Company after revival of the Company.

13. Accordingly, **Company Appeal/47/CHE/2024** is hereby **disposed of**.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd

SANJIV JAIN
MEMBER (JUDICIAL)

SriramAnanth.V