

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

CP No. 93/Chd/HP/2022

Under Section 252(3), Companies Act, 2013

In the matter of :

HIM Broadcast Private Limited

Through its Director, Sh. Monu Kumar

Registered Office : C/O Monu Kumar, Ward No. 2,
Village Dharamshala (Bhanala), GP Gorra,
Tehsil Shahpur, Kangra, Himachal Pradesh-176206
PAN : AAECH3877P
CIN No. U74999HP2017PTC006818

...Appellant Company/Petitioner

Versus

The Registrar of Companies, Himachal Pradesh

1st Floor, Plot No. 4B, Sector 27B,
Corporate Bhawan, Madhya Marg,
Chandigarh-160019

Income Tax Department, Chandigarh

Through Nodal Officer,

Principal Chief Commissioner of Income Tax, NWR
Aayakar Bhawan, 2nd Floor,
Sector-17E, Chandigarh

...Respondents

Order delivered on: 17.03.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present : -

For the Petitioner

: Mr. Karanveer Jindal, Advocate

Income Tax Department

: Mr. Yogesh Putney, Senior Standing Counsel

Per: Harnam Singh Thakur, Member (Judicial)

ORDER

This Company Petition has been filed by Appellant Company-**HIM Broadcast Private Limited**, through its Director, Mr. Monu Kumar, under Section 252(3) of the Companies Act, 2013 for restoration of the name of the struck-off company in the Register of Companies, maintained in the office of the Registrar

of Companies, Himachal Pradesh. It is stated that the name of the company was struck off on 17.02.2022. Copy of the notice of striking off and Master Data of the company are attached with the petition as Annexure-A5.

2. It is contended that the Registrar of Companies, Himachal Pradesh i.e. the Respondent herein, struck off the petitioner's name of the Register vide public notice ROC/STK/7 dated 17.02.2022 due to defaults in statutory compliances.

3. It is submitted that the petitioner, with its registered office in Himachal Pradesh, struck off the petitioner's name of the Register due to defaults in statutory compliances, namely, failure to file Annual Financial Statements. Hence, the petitioner prayed for the passing of an order for the restoration of the name of the Appellant Company.

4. Notices were issued to the Registrar of Companies, Himachal Pradesh and the Income Tax Department. The Registrar of Companies, Himachal Pradesh has submitted a report vide Diary No. 02165/2 dated 29.12.2022 that the Registrar of Companies, Himachal Pradesh had issued notice to the company and its directors in terms of Section 248 of the Companies Act, 2013 read with Rule 7 & 9 of Company (Removal of Names of Companies from the Register of Companies) Rules, 2016 because the company had not filed the statutory annual documents with the Registrar of Companies for the Financial Year 2018-19 to 2020-21. Thus, believing that the company was not carrying on any business or not in operation at the time of struck off.

5. It has been stated by the Income Tax Department in its report filed vide Diary No.02165/01 dated 22.12.2022 through Mr. Varun Khari, Income Tax

Officer, Dharamshala stating that there is neither any outstanding demand against the company, nor any proceedings are pending.

6. It is submitted by the learned counsel for the appellant company vide order dated 20.02.2023 of this Tribunal that the appellant company was carrying on its business and was in operation since the time of incorporation (page 9 Para (vi.)). The appellant company has already filed its Income Tax Returns for the Assessment Year 2022-2023. Copy of the Financial Statements for the F.Y. 2018-19, 2019-20, 2020-21, 2021-22 and GSTR Form 3B 2021-22 are attached as Annexure A3 and A4 of the main petition. Thus, it can be safely held that at the time of striking of its name, appellant company was carrying on its business and was in operation.

7. After considering the submissions of the learned counsel on behalf of the petitioner and on a perusal of the report of Registrar of Companies, Himachal Pradesh, the Financial Statements for the year ended at 2018-19, 2019-20, 2020-21, 2021-22, Bank Statement and GSTR Form 3B for the year 2021-22 have been submitted by the petitioner, and other documents placed on record, this bench holds that it would be just, equitable and fair in the interest of justice to provide an opportunity to the company to rectify its defaults and continue the business.

8. Accordingly, in the exercise of the powers conferred on the Tribunal under Section 252 of the Companies Act, 2013, the petition is allowed on the following terms:-

- a. The Registrar of Companies, Himachal Pradesh, the respondent herein, is directed to restore the original status of the appellant company as if the name of the company had not been struck off

from the Register of Companies with the resultant and consequential actions like changing status of appellant company from 'struck off' to 'active'.

- b. The appellant company is directed to file all pending statutory documents, including annual accounts and annual returns, along with prescribed fees/additional fees/fines as decided by Registrar of Companies, Himachal Pradesh, within 45 days from the date on which its name is restored on the Register of Companies maintained by the Registrar of Companies, Himachal Pradesh.
- c. The petitioner is directed to deliver a certified copy of this order to the Registrar of Companies, Himachal Pradesh, within thirty days of the receipt of this order.
- d. On such delivery and after due compliance with the above directions, the Registrar of Companies is directed to publish the order in the official gazette under his office, name and seal.
- e. This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the company. It will not come in the way of the Registrar of Companies, Himachal Pradesh, to take appropriate action in accordance with the law for any other violation/offences, if any, committed by the appellant company prior to or during the period when the name of the company remained struck off.
- f. The Income Tax Department may take the necessary action as per law for the non-filing or belated filing of the Income Tax Returns of

the Company for any of the assessment years and also for recovery of outstanding demand if any.

g. This order will be subject to payment of costs of ₹50,000/- (Rupees Fifty Thousand Only) to be paid in favour of "PM Cares Fund" within three weeks from the receipt of the duly certified copy of this order.

9. The CP No. 93/Chd/HP/2022 is allowed and disposed of accordingly.

10. The Registry is directed to send e-mail copies of the order forthwith to all the parties including the counsel.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

March 17, 2023

VN/TB