

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

CP No.42/Chd/PB/2021

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

In the matter of :

Gurvinder Singh

s/o Shri Kuldeep Singh
DIN 05135538
Member and Director of
Ekam Exim Private Limited
R/o 502, Sector 25-A, Street No. 10
Gobindgarh, Mandi Gobindgarh
Distt. Fatehgarh Sahib
Punjab- 147301

...Petitioner

Versus

1. Registrar of Companies, Chandigarh and Punjab

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

2. Income Tax Department, Chandigarh

Through Nodal Officer,
Aayakar Bhawan, 2nd Floor,
Sector-17E, Chandigarh- 160017

...Respondents

Order delivered on: 24 .04.2024

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. L.N. GUPTA, MEMBER (TECHNICAL)**

Present :-

For the Petitioner : Mr. Mr. Umang Goyal, Advocate

For the Income Tax Department : Mr. Yogesh Putney, Senior Standing Counsel

Per: Sh. Harnam Singh Thakur, Member (Judicial)

Sh. L. N. Gupta, Member (Technical)

ORDER

This Company Petition has been filed by Petitioner- **Ekom Exim Private Limited**, through its Member and Director, Gurvinder Singh, S/o Sh. Kuldeep Singh, 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, Chandigarh and Punjab. It is stated that the name of the company was struck off w.e.f. 11.09.2018. Copy of the notice of striking off is attached with the petition as Annexure-8. Copy of the Master Data of the company is attached with the petition as Annexure-9.

2. It is contended that the Registrar of Companies, Chandigarh and Punjab, i.e., the Respondent herein, struck off the petitioner company's name of the Register vide public notice ROC/STK/7 dated 11.09.2018, due to defaults in statutory compliances.

3. It is submitted that the petitioner company has its registered office in Mandi Gobindgarh, Punjab, India. Its name was struck off as the Company did not file its Annual Returns and Financial Statements for the period 2016, 2017, 2018, 2019 and 2020. Hence, the petitioner has prayed for the passing of an order for the restoration of the name of the Petitioner Company.

4. Notices were issued to the Registrar of Companies, Chandigarh and Punjab and the Income Tax Department. The Affidavit of Service were filed vide diary No.00622 dated 27.04.2021. The Registrar of Companies, Chandigarh and Punjab, has submitted a report vide Diary No.00622/01 dated 07.09.2021. The company was incorporated on 12.01.2012 and as per available records on MCA

21-(Back Office portal), the last Annual Return and Balance Sheet submitted by the company, before it was considered to be struck off, pertains to the financial year that ended on 31.03.2015. Notice was issued 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 as the company had not filed the statutory annual documents with the Registrar of Companies for the last 02 years, i.e., 2015-16 and 2016-17. Hence, the ROC had reasonable cause to believe that the company was not in operation and therefore, the name of the company was struck off from the Register of the Companies. The action of striking off of the present Company was legal and justified, as the company was not carrying on any operations for a period of two immediately preceding financial years.

5. No report has been filed on behalf of the Income Tax Department despite notice.

6. Although no affidavit has been filed on behalf of the company, but it is evident from the Income Tax Returns F.Y. 2013 to 2016 that at the time of striking off, the applicant company was carrying on business and was in operation. The company to support its claim that it was carrying on its operations when its name was struck off, has filed copies of the Financial Statements for the F.Y. 2017-18 to 2019-20 (Annexure A/3, A/4 and A/5), along with the Company's Bank Account Statement (Annexure A/7), which is attached with the main petition.

7. After considering the submissions of the learned counsel on behalf of the petitioner and on a perusal of the report of the Registrar of Companies, Chandigarh and Punjab, the Financial Statements submitted by the petitioner company, 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, Chandigarh and Punjab, the respondent herein, is directed to restore the original status of the Petitioner 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 the status of the petitioner company from 'struck off' to 'active'.
- b. The Petitioner company is directed to file all pending statutory documents, including annual accounts and annual returns, along with prescribed fees/additional fee/fine as decided by the Registrar of Companies, Chandigarh and Punjab, within 45 days from the date on which its name is restored on the Register of Companies maintained by the Registrar of Companies.
- c. The petitioner is directed to deliver a certified copy of this order to the Registrar of Companies, Chandigarh and Punjab, 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, Chandigarh and Punjab, to take appropriate action in accordance with the law, for any other violation/offences, if any committed by the Petitioner 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 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 "Pay and Accounts Officer, Ministry of Corporate Affairs" within three weeks from the receipt of the duly certified copy of this order.
9. The CP No. 42/Chd/Pb/2021 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/-
(L.N. Gupta)
Member (Technical)

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

April 24 , 2024

ASG