IN THE NATIONAL COMPANY LAW TRIBUNAL, BENCH-V, NEW DELHI
Appeal No. 234/**252**/ND/2020

Item No. 205 of 02.09.2020

IN THE MATTER OF:

Mr. Sanjeev Kumar, Director
26-P, Sec-IV, Diz Area, Raja Bazar, Saheed Bhagat
Singh Marg, Gole Market New Delhi- 110001 .....Appellant No. 1

Ms. Mridula Brijnandan, Director,
26-P, Sec-IV, Diz Area, Raja Bazar, Saheed Bhagat
Singh Marg, Gole Market New Delhi- 110001 .....Appellant No. 2

[Directors of **Serve Facility Management Pvt. Ltd.,**
26-P, Sec-IV, Diz Area, Raja Bazar, Saheed Bhagat
Singh Marg, Gole Market New Delhi- 110001]

Vs.

Registrar of Companies,
4th Floor, IFCI Tower 61, Nehru Place, Delhi-110019 .....Respondent

Order Delivered on: **09.09.2020**

CORAM:
ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)
K.K. VOHRA, HON'BLE MEMBER (T)

PRESENT:
For the Applicant : Mr. Nikhil Kumar Verma, CS Sachin
For the Respondent : Ms. Sweety Khattar, ARoC
For Income Tax : Mr. Kunal Sharma, Ms. Zehra Khan

ORDER

Per K.K. Vohra Member (T)

1. This Appeal has been filed by Directors of the Company named 'Serve Facility Management Pvt. Ltd' (the Company) invoking the provisions of Section 252 (3) of the Companies Act, 2013 (The Act) for restoration of the

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name of the Company in the Register maintained by the Registrar of Companies (RoC).

2. As per the averments, the Company was incorporated on 08.06.2011 as a private limited Company, having Corporate Identity Number (CIN) U74140DL2011PTC220550. The Company provided service as contractor, sub-contractor, agent, sub-agent, jobber and consultancy of all kinds of property management, facility management and building management service in India and abroad.

3. An action was initiated by the RoC at the instance of MCA in striking off the names of several Companies who had failed to file their Statutory Returns. The Appellants had failed to file its Annual Returns for the FY 2016-17, 2017-18, 2018-19 thereby giving rise to the surmise that the Company was not doing any business activity. Consequently, its name was struck off by the Respondent (RoC) from the Register of Companies (Register) under Section 248 of the Act vide notification dated 29.10.2019.

4. The Appellants have submitted that they are ready to submit Annual Returns before the Respondent.

5. The Appellants submit that the Company has been in continuous business operation, has been regular in preparing balance sheets and filing Income Tax Returns with the competent authorities. In order to corroborate this submission, the Appellants placed before us the following evidence:

   i. The Company has submitted IT Returns for the AY 2019-20, showing net tax paid of Rs. 23,367. For AY 2017-18, the Company showed tax payable of Rs. 90,478.

   ii. As per the audited financial statements as on 31st March 2019, the Company's revenue from operations was Rs. 98,34,600. During FY 2018-19, the Company had revenue

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from operations at Rs. 313,18,600. During FY 2017-18, the Company had revenue from operations at Rs. 301,00,000.

iii. Copy of Bank Statements of Axis Bank for the period of 01.04.2017 to 31.03.18, showing credit balance of Rs. 1,34,787 as on 23.03.18. Bank Statements of Axis Bank for the period of 01.04.18 to 31.03.2019, showing credit balance of Rs. 1,52,367 as on 30.03.2019. SBI for the period 01.04.2018 to 31.03.2019, showing credit balance of Rs. 20,598 as on 05.02.2019. Bank Statement of SBI for the period 01.04.2019 to 31.03.2020, showing credit balance of Rs. 1,71,997 as on 07.01.2020.

6. ROC, vide report dated 28th Aug, 2020, have raised no objection to restoration of name of the Company to the Register of ROC. Income Tax Deptt have confirmed on 24th Aug, 2020 that they have no objection in restoration of name of the Company.

7. The provisions pertaining to restoration of the name of the Company have been provided in Section 252 of the Act which include that, if it is just and equitable to restore the name of the Company in the Register, the Tribunal may direct the RoC to restore the name in its Register.

8. The Appellants have been able to satisfy this Bench that the Company is a going concern which necessitates and justifies restoration of its name in the Register.

9. In view of the Company working as a going concern, submitting IT Returns, preparing balance sheets having revenue from operations, the Appeal to restore the name of the Company to the Register of RoC is **allowed** subject to payment of costs of Rs. 25,000 to the Prime Minister Relief Fund along with Rs. 50,000 to the Ministry of Corporate Affairs. Accordingly, the order of RoC dated 29.10.2019 to strike off the name of the Company from the Register is hereby set aside. The restoration of the name of the Appellants

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Company in the Register will be subject to the Company's filing all outstanding documents for the defaulting years as required by law and completion of all formalities, including payment of any late fee or other charges which are leviable by the Respondent. The name of the Company shall then stand restored in the Register of the RoC, as if its name had not been struck off.

10. The direction for freezing the Bank Account(s) of the Company, if on this ground, shall consequently be also set aside immediately to enable the Company to carry out its business operation. Compliance of this order for restoration shall be made by the RoC with all its consequential effects within one week of compliance by the Company.

11. Let the copy of the order be served to the parties.

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(K.K. VOHRA)
Member (T)

-Sd/-

(ABNI RANJAN KUMAR SINHA)
Member (J)