

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH - VI
APPEAL NO. 144/252/ND/2022

IN THE MATTER OF:

1. M/s MORE ESTATES PRIVATE LIMITED

REGISTERED OFFICE AT:

8, Community Centre, BASANT LOKVASANT VIHAR, New Delhi - 110057

[CIN: U74900DL1989PTC037292]

... APPELLANT No. 1

2. Ms. KAVITA SINGH

R/o : D-226 A, Sarvodaya Enclave, New Delhi - 110017

... APPELLANT No. 2

3. Mr. AJIT SINGH RAO

R/o H. No. 1/3, Rampura, Rewari, Haryana 123401

Ex - Director [DIN : 08909737]

... APPELLANT No. 3

Versus

**REGISTRAR OF COMPANIES,
NCT OF DELHI & HARYANA,
4TH FLOOR, IFCI TOWER,
61, NEHRU PLACE,
NEW DELHI- 110019**

... RESPONDENT NO.1

**INCOME TAX DEPARTMENT
DCIT (Delhi High Court Cell)
Lawyer's Chamber, Block No 1
Room No 428 & 429
Delhi High Court, New Delhi**

... RESPONDENT NO. 2

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCES

For the Appellant: Mr. Himanshu Harbola & Mr. Aman Thukral, Advocates

For the RoC:

Ms. Shankari Mishra, Advocate

**For the Income Tax Department: Adv. Gaurav Gupta, Senior Standing Counsel
With Adv. Puneet Singhal and Adv. Shivendra
Singh, Junior Standing Counsels**

ORDER

PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

ORDER DELIVERED ON: 18.04.2024

1. This is an appeal filed under section 252(1) of the Companies Act read with Rule 87A of the National Company Law Tribunal (Amendment) Rules, 2017 by the Appellant Company namely **M/s MORE ESTATES PRIVATE LIMITED [CIN: U92490DL2019PTC355582]** in relation to an order of striking off the name of the respondent company passed by the Respondent RoC with effect from 20.01.2023 under the provisions of Section 248(1)(c) of the Companies Act, 2013 read with Rule 9 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.
2. Notice was issued to Income Tax Department vide order dated 22.02.2023 to file their appearance and reply. On the basis of advance notice, ARoC appeared in person before this Tribunal on 22.02.2023 and submitted that they have received the copy of the petition and sought time to file their reply within a period of 2 weeks. The RoC has filed its report dated 23.03.2023 before this Tribunal on 05.04.2023.
3. **The appellant has made the following submissions in their petition: -**
 - a. Learned counsel for the Appellant represents that the Appellant Company was incorporated under the provisions of Companies Act, 1956 on 07.08.1989 and has its registered office at: 8, Community Centre, Basant Lok, Vasant Vihar, New Delhi - 110057 which falls within the jurisdiction of this Tribunal (New Delhi Bench) and also RoC, NCT of Delhi & Haryana.

- b. The Authorized Capital of the Company is Rs. 5,00,000/-. The Paid-up Capital of the company was Rs. 2,000/- as per Master Data of the company.
- c. This Tribunal vide order dated 08.07.2022 had directed the Ld. Counsel for the appellant company to file a tentative business development plan for the next five years if the restoration appeal were to be allowed.
- d. In compliance to the aforesaid direction issued by this Tribunal, the appellant No. 2 has filed an affidavit stating that the Appellant Company i.e. M/s More Estates Private Limited holds a land situated at Village Gagli which is located in Rewari District of Haryana State. It is contended that the location of the land has a strategic advantage as the region has good irrigation facilities and well-connected logistics coupled with high demand of milk and other dairy products. It is submitted that the promoters of the appellant company intend to start a new agricultural project including dairy farming by modern techniques to sustain and further boost the business.
- e. The detailed business plan has been marked as annexure-B to the petition and upon perusal appears to be of a satisfactory nature. The estimated cost of the project is Rs. 80,00,000/- and the total area is 12 acres.
- f. Appellant submits that the company is a closely held enterprise and due to lack of professional guidance and support, failed to meet requisite statutory compliances, however now seeks an opportunity to rectify them and undertakes to be diligent and abide with all statutory compliances duly in future exercising abundant caution without fail.

- g. It is further averred by the appellant company herein that it had not obtained PAN (Permanent Account Number) from the Income Tax Department, Government of India. However, Ld. Counsel for the appellant company undertakes that they would obtain PAN (Permanent Account Number) from the Income Tax Department, Government of India and further submits that all belated/pending filings would be duly undertaken by them with immediate effect if the restoration appeal is allowed by this Tribunal.
- h. The appellants have prayed to allow the present restoration appeal of the company herein namely M/s More Estates Private Limited with such directions as deemed fit by this Tribunal in the interest of justice.
4. **The respondent RoC have made the following submissions in their reply: -**
- a. That the company was incorporated on 07.08.1989 and no annual return and Balance Sheet had been submitted by the appellant company with the office of the RoC till date since its incorporation. The Respondent RoC further contended that neither any subsequent documents were filed by the appellant company with the Respondent RoC to obtain the status of a “Dormant Company” u/s 455 of The Companies Act, 2013.
- b. That as per Memorandum of Association of the struck off company, the main objects of the company are as follows: -

“To purchase, take on lease, rent, hire or otherwise acquire/freehold and leasehold agricultural and other lands, plots/properties and building of every description and to

colonise, develop, cultivate, construct, manage, maintain, sell, let, mortgage, assign, lease out or otherwise dispose of the same including the produce of land, whether in whole or its parts or in any other manner including sale or disposal on installment basis or under hire purchase agreements etc”.

- c. That as per records available on MCA 21 Portal, there are no details of the last directors of the company.
- d. Hence the RoC contended that it had reasonable cause to believe that the company was not in operation at the time of strike off and was not carrying on any business for a period of two immediately preceding financial years (as indicated by non-filing of the financial statements of the company for 2 or more years).
- e. The respondent RoC pleads that the action of striking off the present company from the register of companies maintained by RoC was therefore legal and justified owing to above circumstances and was taken in good faith by the RoC.
- f. The appellant company had submitted that it had never obtained PAN (Permanent Account Number) from the Income Tax Department, Government of India. Further, the appellant company had stated that it had purchased Agricultural Land covering total 138 Kanal 4 Marla situated in the Revenue Estate of Village Gagli through an agricultural land sale deed dated 04.05.1992

entered into between Smt. Sumitra Devi (seller) and M/s More Estates Private Limited (buyer) amounting to Rs. 5,00,000/- (Five Lakh Only).

g. To the aforesaid submission made by the appellants, the Income Tax Department had raised an observation that since the land was acquired by the appellant company in absence of a valid PAN issued by IT Department, they must clarify the source of the funds. To this observation, Ld. Counsel for the appellant company via affidavit dated 06.10.2023 has stated that the said land was purchased by the company for consideration of Rs. 5,00,000/- through funds obtained in the form of unsecured loan from the promoters of the company who have been arrayed as Appellant No. 1 and Appellant No. 2 respectively in the present appeal.

h. The name of the Respondent Company was struck off as per the provision of Section 560(5) of the Companies Act, 1956 by issuing notice dated 31.05.2007 followed by Notification No. ROC/DELHI/560(5)/260 in the Weekly Gazette of India for the week of June 23rd, 2007 to June 29th, 2007.

i. Section 560(5) of the Companies Act, 1956 is reproduced herein for the sake of brevity: -

560. Power of Registrar to strike defunct company off register

(5) At the expiry of the time mentioned in the notice referred to in sub-section (3) or (4), the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Official Gazette; and on the publication in the Official Gazette of this notice, the company shall stand dissolved: Provided that-

(a) the liability, if any, of every Director, [* * *] manager or other officer who was exercising any power of management, and of every member of the company, shall continue and may be enforced as if the company had not been dissolved; and

(b)nothing in this sub-section shall affect the power of the [Tribunal] [*Substituted by Act 11 of 2003, Section 114, for " Court".*] to wind-up a company the name of which has been struck off the register.

- j. The RoC has made following observations on the basis of information provided by the appellant: -

S.NO	PARTICULARS	REMARKS
1.	REVENUE FROM OPERATIONS	NOT SUBMITTED WITH THE PETITION
2.	AUDITED FINANCIAL STATEMENTS	NOT SUBMITTED WITH THE PETITION
3.	BANK STATEMENT	NOT SUBMITTED WITH THE PETITION
4.	INCOME TAX RETURN	NOT SUBMITTED WITH THE PETITION

- k. Further, proxy counsel on behalf of RoC appeared before this Tribunal on 11.01.2024 and submitted that they have filed their report on 11.01.2024 and that they have no objection to the revival of the company.

ANALYSIS AND FINDINGS

5. We have considered the plea of the Appellant and the representations of RoC. It is evident from the plea of the Appellant that it admits the default. However, the Appellant is seeking restoration of its name in the register as maintained by RoC relying on the ground that due to lack of professional support, the directors of the company were unable to do statutory filings as prescribed by law.
6. In our experience of company restoration appeal matters, generally one or two compliances get inadvertently missed out on the part of the management due to some odd reason. However, in the present case, since the incorporation in 1989, no single

compliance has been done whatsoever. It appears that the present appeal has been filed to derive benefit from the value of the purchased land which would have significantly compounded by now. Clearly, the directors have not been diligent in conducting their duties.

7. Nevertheless, Appellant is now willing to rectify the omission instantly with abundant precaution as to all statutory compliances in the future. The business plan of the appellant appears to be a credible one. Having considered submissions of all the parties and considering the appreciation of documents placed on records to substantiate their respective claims, we are of the view that it is **just and equitable** that the name of the Company should be restored on the register of companies as maintained by the Respondent RoC.

8. In Purushottamdas and another (Bulakidas Mohta Company Private Limited V. Registrar of Companies, Maharashtra & Others.), The Hon'ble Bombay High Court observed as follows: -

20. "The objects of Section 560(6) of the Companies Act, is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and to give them an opportunity of carrying on the business only after the company judge is satisfied that such restoration is necessary in the interests of justice".

9. In M.A. Rahim & another V. Sayri Bai, the Division Bench of Hon'ble Madras High court, reported in MANU/TN/0218/1973, has held that the word just' connotes reasonableness and something confirming to 'Rectitude' and 'Justice ', something Equitable and Fair.

10. Accordingly, **the appeal is allowed**, subject to payment of costs of Rs. 3,00,000/- to be borne by the appellants payable to the Registrar of Companies. The restoration of the Appellant Company's name in the Register will be subject to their 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 RoC for the late filing of statutory returns. The name of the Appellant Company shall then stand restored in the Register of the RoC, as if the name of the company had not been struck off.
11. The direction for freezing the bank account(s) of the Appellant 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 Respondent with all its consequential effects within one week of compliance by the Appellant.
12. The appeal is **allowed** and disposed of accordingly. Let the copy of the order be served to the parties.

-Sd-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

-Sd-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)