

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH COURT-III

COMPANY APPEAL NO. 766/252/ND/2019

An application under section 252 of the Companies Act, 2013.

IN THE MATTER OF

M/s. RIVIERA BAG MANUFACTURING LIMITED

Having Registered Office at:
26/9, Old Rajinder Nagar,
New Delhi-110060

.... Struck Off Company

Mr. RAJESH MANCHANDA

Shareholder of Riviera Bag Manufacturing Limited

R/o B-541, New Friends Colony,
New Delhi-110025

... Appellant/Petitioner

VERSUS

1. THE REGISTRAR OF COMPANIES

NCT of Delhi and Haryana
IFCI Tower, 4th Floor, 61, Nehru Place,
New Delhi-110019

2. DEPARTMENT OF REVENUE

Through Assessing Officer
Ward 21(4), New Delhi,
Income Tax Office, C.R. Building,
I.P. Estates, New Delhi-110002

... Respondents

Order pronounced on: 26.04.2024

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES

For the Applicant: Ms. Nalini, Adv.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Petition has been filed by one of the Shareholder of the Appellant Company namely Mr. Rajesh Manchanda under Section 252(3) of the Companies Act, 2013 for restoration of name of the struck off company in the register of companies, maintained in the office of the Registrar of Companies, NCT of Delhi and Haryana. It is stated that the company 'M/s. Riviera Bag Manufacturing Limited was incorporated on 19.10.1995 and the name of the Company was struck off via notice no.- ROC-DEL/248(5)/STK-7/4865 on 08.08.2018 by the ROC.
2. It is contended that the reason given by RoC for striking the name of the company is that the Company has not been carrying on any business or operation for two years immediately preceding financial years and has not made any application within such period for obtaining the status of dormant company u/s 455 of Companies Act.
3. The Appellant Company's business is "To manufacture, export import and deals in textiles made ups, Bags, Caps, Readymade Garments". The Authorized Capital is Rs. 1,00,00,000/- divided into 10,00,000 equity shares of Rs. 10/- each. The

Paid up Share Capital of the Company is Rs. 9,52,000/- divided into 95,200 shares of Rs. 10/- each.

4. The name of the Company has been struck off from the Register of Companies by the Registrar of Companies, NCT of Delhi and Haryana on 08.08.2018. It is alleged by the Registrar of Companies that the present Company has not been carrying on any business or operation for a period of two immediately preceding financial years and has not made an application within such period for obtaining the status of dormant company under Section 455 (1) of the Companies Act, 2013.
5. The Riviera Bag Manufacturing Limited (Struck Off Company) had filed its Annual Return and other Financial Statements with the Respondent No. I till the year 31 March 2007. It is submitted that in the year 2008, the management of the Struck off Company got involved in a dispute with each other. The Shareholders of the Struck off Company filed a petition bearing C.P. No. 12/ND/2008 under Section 397 and 398 of Companies Act, 1956 before the Company Law Board (hereinafter to be referred as CLB). The CLB vide Order dated 04.03.2016 allowed the Petition. The Respondents being aggrieved by the order of the CLB filed an Appeal against the Order dated 04.03.2016 in the High Court of Delhi. The said Appeal is still pending adjudication.
6. It is submitted that due to the deadlock and dispute between the management of the Struck Off Company, no Board Meeting could be held since 2008 and no AGM (Annual General Meeting) could be held after 29.09.2007. Also due to the abovementioned dispute, the Struck off Company has not conducted any business since the year 2008.
7. It is submitted that the Struck Off Company owns two valuable immovable assets being Industrial Plot situated at Plot No. 160, Block C, Sector — 63, Noida, U.P. and one residential plot situated at Plot No. 30, Block D, Sector - 47, Noida, U.P. The Struck off Company is not carrying on any business because of the

deadlock between its management that an Appeal is pending against the Struck Off Company in the High Court of Delhi and the Struck Off Company also owns immovable assets in its name as stated above. Hence it would be just to restore the name of the Struck Off Company to the Registrar of Companies under Section 252 (3) of Companies Act, 2013 in the interest of the Company and Shareholders.

8. The Appellant/Petitioner undertakes to comply with all the provisions of Companies Act, Income Tax Act and other applicable Acts immediately as soon as the Appeal is decided by the Hon'ble High Court of Delhi.
9. Notice was issued to the Registrar of Companies, NCT of New Delhi and Haryana. The Registrar of Companies has submitted a report. It was stated in the report that only after compliance with the requirements to be met under Section 248 of the Companies Act, 2013, the Registrar of Companies has struck off the company's name from the register.
10. RoC has not objected to this application for restoration of the name of the company.
11. On perusal of the application, we are satisfied that the name of the company should be restored to the register.
12. Thus, taking into consideration the provisions of section 252 of the Companies Act, 2013, which vests this Tribunal with a discretion where the Company, whose name has been struck off, and such Company is able to demonstrate that it is just and equitable to do so, can restore the name of the Company, in the Register and in the interest of all stakeholders, including the Appellant itself, who seeks restoration of the name of the Company in the register maintained by Registrar of Companies and company not being a shell company, the company deserves to be restored.

13. According to Section 252 of the Companies Act of 2013, any member or creditor who feels aggrieved is also qualified to file "Appeal" against the Registrar of Companies' decision before the period of 20 years following the date the decision was published in the Official Gazette. We are of the considered view that applicant is a creditor and in the light of the above findings, this company appeal is maintainable in the eyes of law.
14. Accordingly, the present petition is allowed on the following terms: -
- a. The Registrar of Companies, NCT of Delhi and Haryana 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 status of 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 the prescribed fee and additional fee as decided by Registrar of Companies, NCT of Delhi and Haryana within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, NCT of Delhi and Haryana.
 - c. The restoration of the Company's name is also subject to the payment of the cost of ₹50,000/- (Rupees Fifty Thousand only) through online payment in www.mca.gov.in under miscellaneous fee by mentioning particulars as "Payment of cost for restoration of the company pursuant to orders of NCLT in Company Appeal No. 766/252/ND/2019.
 - d. The petitioner is directed to deliver a certified copy of this order with the Registrar of Companies, NCT of Delhi and Haryana within thirty days of the receipt of this order.

e. On such delivery and after due compliance with the above directions, the Registrar of Companies, NCT of Delhi and Haryana is directed to publish the order in the Official Gazette under his office name and seal.

f. This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of the Registrar of Companies, NCT of Delhi and Haryana to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off.

15. The Company Appeal No. 766/252/ND/2019 is **Allowed** and disposed of accordingly.

16. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

17. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

Sd/-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

Sd/-

**BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**