

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT - III

Company Appeal No.961/252/ND/2019

IN THE MATTER OF:

INCOME TAX OFFICER, WARD 23(1), NEW DELHI

Central Revenue Building

New Delhi

...Appellant

VERSUS

1. REGISTRAR OF COMPANIES

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

...Respondent No. 1

2. M/s. SHAKAMBRI ELECTRICALS PVT. LTD.

351, Kucha Ghasi Ram (2nd Floor),
Fatehpuri, Chandini Chowk,
Delhi-110006

...Respondent No. 2

3. MR. RAMESH KUMAR KAYAN

House No. 915, Near anand farm house,
Sector-22B, Molahera(65), Palam road,
Gurgaon-122015

...Respondent No. 3

4. MS. MONIKA KAYAN

House No. 915, Near anand farm house,
Sector-22B, Molahera(65), Palam road,
Gurgaon-122015

...Respondent No. 4

Order Delivered on: 19.02.2024

CORAM:

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the Applicant: Mr. Puneet Rai, Sr. St. Counsel along with Adv Nikhil Jain

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. This appeal has been filed by Income Tax Authority, invoking the provisions of Section 252 (1) read with section 252(3) of the Companies Act, 2013, for restoration of the name of the Respondent No. 2 Company, M/s. Shakambri Electricals Pvt. Ltd. in the Register of Companies, maintained by the Registrar of Companies ("ROC"), Respondent No.1.
2. Service of notice was duly effected on the Respondents, except the ROC none appeared on behalf of the other Respondents. Therefore, Respondent No 2-4 were set ex-parte on 29.01.2024.
3. The name of the Respondent no. 2 was struck off from the register of companies on 08.08.2018 vide Form STK-7.
4. Invoking the provision of Section 252 of the Act, the Income-Tax Department has prayed for its restoration in order to carry out proceedings initiated against Respondent No. 2. As per the Information collected and received by the Income Tax Department, the Income of the Respondent Company has escaped assessment for Assessment Year 2012-13. The Respondent Company has not filed their Income Tax Return. Proceedings have been initiated against the Respondent Company and notice under Section 148 of Income Tax Act, 1961 has been issued against the Assesse/Respondent Company on 12.03.2019.

5. As per the Demand Notice dated 20.05.2023 for the year 2015-16, there is an outstanding demand of Rs. 2,43,04,030/- (Rupees Two Crore Forty-Three Lakhs Four Thousand Thirty Only) against the Respondent Company.
6. As per the Grievance of the Income Tax Department, the name of the Respondent Company had been struck off by the ROC, thus, seriously affecting the recovery of Respondent Company's tax liabilities. Therefore, for recovering the tax dues and for any further consequential proceedings against the company under the Income Tax Act, 1961, it is just and equitable and in public interest that the name of the Respondent Company be restored in the register of companies, as if the name of the company had not been struck off from the Register of Companies.
7. Ld. Counsel for the Income Tax submitted that the aforesaid facts necessitate restoration of the name of the Respondent Company in the Register of Companies to proceed further in accordance with law. In view of the grounds raised by the Appellant, being an aggrieved person, their prayer can be entertained u/s 252 of the Companies Act, 2013.
8. The Respondents despite notice and paper publication have not appeared before us and in view of the grounds raised by the Appellant, which remain unrebutted, the prayer of the Appellant merits consideration. The appeal is therefore allowed. The ROC is therefore directed to restore the name of Respondent 2, in its register and also proceed to take such other further action against the Respondents in accordance with the statutory provisions.
9. We, however, make it clear that this Bench has only directed restoration of the name of the Respondent No. 2 Company in the Register of Companies, maintained by the ROC, on the basis of averments made in the petition and have in no way endorsed or adjudicated about the Appellant's entitlement to recover any amount as tax etc. which shall be adjudicated by the Department and the Appellate Authorities, subject to the laws of limitation governing such recoveries.

The appeal is **allowed and disposed of** in terms of the above. Compliance be made with the ROC within 30 days.

Sd/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd/-

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