

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, COURT – III

Company Appeal No.1170/252/ND/2018

IN THE MATTER OF:

INCOME TAX OFFICER, WARD 19(3), NEW DELHI

Having his office at
C. R. Building, I. P. Estate,
New Delhi - 110002

...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. PANACHE ASSOCIATES PVT. LTD

507, Sharp Bhawan,
Commercial Complex, Azadpur,
Delhi-110033

...Respondent No. 2

3. MR. RAJESH DATTA

ND-12, Pitampura,
Delhi-110088

...Respondent No. 3

4. MR. HARISH KUMAR DAYAL

ND-12, Pitampura,
Delhi-110088

...Respondent No. 4

Order Delivered on: 02.05.2024

CORAM:

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

APPEARANCES:

For the Income Tax Department: Sr. Adv. Puneet Rai, Adv. Rishabh Nangia,
Adv. Ashvini Kumar, 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. Panache Associates 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 2-3 were set ex-parte on 21.02.2022.
3. On perusal of the MCA Portal, it was ascertained that M/s. Panache Associates Pvt. Ltd i.e. Respondent Company had filed an Application u/s 560 of the Companies Act, 1956 and submitted Form FTE dated 08.04.2015 to the ROC to strike off its name from the Register of Companies.
4. The Respondent Company has filed its ITR for A.Y. 2011-12, disclosing turnover only of Rs. 6.87 Crores which does not explain the credit amount of Rs. 10.74 Crores in its bank account.
5. 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. The Appellant had passed the assessment order dated 28.12.2018 under section 144 of the Income Tax Act, 1961 for A.Y 2011-12.

6. The Respondent Company has not disclosed an estimated amount of at least Rs. 10,74,65,800/- which has escaped assessment within the meaning of Section 147/148 of the Income Tax Act and has not been brought under tax for the A.Y. 2011-12.
7. The Appellant has issued notice dated 26.03.2018 u/s 148 of the Income Tax Act for A.Y. 2011-12 to the Respondent Company. The case of the Respondent Company has been re-opened under section 147 of the Income Tax Act for assessing the aforesaid transactions in the hands of the Company.
8. As per the Demand Notice dated 28.12.2018 for the year 2011-12, there is an outstanding demand of Rs. 2,00,37,510/- (Rupees Two Crore Thirty-Seven Lakhs Five Hundred Ten Only) against the Respondent Company.
9. 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.
10. 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.

11. 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.
12. 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)**