

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI PRASANTA KUMAR MOHANTY,
HON'BLE TECHNICAL MEMBER**

Appeal No. 01/252(3)/JPR/2023

IN THE MATTER OF:

JAIPUR INFRAHEIGHTS PRIVATE LIMITED

Having its Registered Office at

58, Shriram Nagar-B, Khirni Fatak Road,
Jhotwara, Jaipur – 302012

Through its Directors & Shareholders

Mohammad Firoz,
Plot No. 286, Jagannathpuri, Kalwar Road,
Jhotwara, Jaipur-302012

Mr. Tara Chand Kumawat,
Plot No. 235, Shilp Colony,
Jaipur-302012

..... Appellants

VERSUS

MINISTRY OF CORPORATE AFFAIRS

through Registrar of Companies, Jaipur

Office Address: - C/6-7, First Floor,
Residency Area, Civil Lines,
Jaipur- 302001 (Rajasthan)

.....Respondent No. 1

INCOME TAX DEPARTMENT, RAJASTHAN,

ITO Ward-1(1), Jaipur,
Income Tax Office,
N.C.R. Building, Jaipur – 302005

.....Respondent No. 2

FOR THE APPELLANT(S) : Hitesh Mishra, Adv.

FOR THE RESPONDENT(S): Pooja Singh, JTA for RoC,

Order Pronounced On: 16.03.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. This Appeal has been filed in the matter of **M/s Jaipur Infraheights Private Limited** ('Company'), through its Shareholder and Director, Mohammad Firoz and Mr. Tara Chand Kumawat ('Appellants') under Section 252(3) of the Companies Act, 2013, praying for the restoration of the Company's name in the Register of Companies maintained by RoC, Jaipur ('RoC') and restoration of the Director Identification Number (DIN) of all Directors of the Company for e-filing balance sheet and annual return and other e-forms.
2. It is stated that the RoC struck off the name of the Company from the Register of Companies due to default in statutory compliance, namely, failure to file Annual Returns and Financial Statement since 2013-14. The name of the Company is stated in Form STK-7 dated 20.09.2018, a copy of which is attached as Annexure - 4 at page no. 43-44 of the Appeal.
3. The main object of the Company is to purchase, sell, acquire, get convert, develop, improve, construct, hold with absolute or limited rights on lease, sublease and to erect, construct, build, demolish, re-erect, alter, repair, furnish and maintain land, including agricultural land, buildings, hotel,

motel, restaurant houses, villas, group housing, farm houses, residential flats, commercial complexes, residential cum commercial complexes, raw houses, colonies, markets, shops, factories, mills, godowns, cold storage and buildings for hotels, restaurants and cinema houses, roads, bridges, dams canals and wells in India or abroad and to manage, maintain land, building, to give land, building on rent to Govt. or other entities, to act as brokers, commission agents, auctioneers, consultants in respect of all types of real estate activities whether in India or abroad.

4. It is submitted that the Company has been active since incorporation and has also been maintaining all required documentation as per the provisions of the Companies Act, 2013. However, the reporting of such activities through the filing of Annual Returns and Balance Sheet with the RoC has not been done due to lack of knowledge and ignorance of the provisions by the company.
5. The Appellant has filed a copy of the provisional Financial Statements of the company for the financial year 2019-20, 2020-21, and 2021-22 in support of its stand that the company was in operation and pursuing activities during the period of striking off the name of the company as Annexure 5 at Page 45-47 of the Appeal.
6. The RoC has filed a report *vide* Diary Number 254/2023 dated 30.01.2023 and has not stated any objections but has submitted that the Company should file the returns as required under the provisions of the Companies Act, 2013.

7. It is noted that an opportunity was given to the Income Tax Department to file the reply, however, the Department has not filed any report in the said matter, which in any case is not an essential requirement for consideration of an Appeal under Section 252 of the Companies Act, 2013. Therefore, it is presumed that the Department has no observations/remarks/objections to the revival of the Company.
8. Upon considering the facts and circumstances and the pleadings of the present Appeal, this Bench is of the view that it is a fit case for the restoration of the name of the company.
9. Accordingly, this Appeal is allowed and the restoration of the Appellant Company's name, i.e. M/s **Jaipur Infraheights Private Limited**, in the Register of Companies maintained by the RoC, is hereby ordered subject to prior submission to the RoC of physical copies of financial statements for the intervening period, from the financial year 2013-14 till date, for the satisfaction of the RoC in respect of the format and requisite content of the said financial statements besides complying with the provisions of the Act. Further, this order will be subject to payment of costs of (1) ₹15,000/- to be paid in favour of "The Prime Minister's National Relief Fund", (2) ₹30,000/- to be paid in the Online Miscellaneous fee account of Ministry of Corporate Affairs within three weeks from the receipt of the duly certified copy of this order. In the event of any liabilities being determined in respect of the

Company by any authorities, including the Income Tax Department, they may proceed in this regard, in accordance with applicable law.

10. This Appeal is disposed of on the terms directed above. The RoC shall give effect to this order after ensuring compliance of tendering of cost. The company is directed to file all the required documents and shall fulfil all other relevant statutory compliances, in accordance with law within 30 days from the restoration of its name in the Register of Companies maintained by the RoC. Consequent to the restoration of the name of the Company, it shall be deemed to be operational in all respects, as if the name of the company had not been struck off under Section 248 of the Companies Act, 2013. The RoC is directed to mark the DIN of the directors of the Company as 'Active', provided the default by the said directors is limited to the Company under consideration herein, in consonance with the ratio decidendi of the order dated 07.10.2017 of the High Court of Telangana and Andhra Pradesh in the case of *Dr. Reddy's Research Foundation Vs. Ministry of Corporate Affairs (Writ Petition 32575 of 2017)* and also directions passed by Hon'ble High Court of Judicature for Rajasthan, Jaipur in an order dated 26.04.2018 in the case of *Niranjan Kumar And Anr Vs. Union Of India And Anr (S.B. Civil Writs No. 8899/2018)*. Alternately, the RoC is directed to facilitate urgent addition of new directors under Section 167(3) of the Act, through backend processing, per directions vide F.No.03/73/2017/CL-II dated 07.10.2017 of the Joint Director, Ministry of Corporate Affairs.

11. Certified copies of this order be communicated by the Registry to the Appellant, Income Tax Department and the Registrar of Companies, Jaipur.

(Deep Chandra Joshi)
Judicial Member

(Prasanta Kumar Mohanty)
Technical Member