

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**

*IA(CA) No. 15/JPR/2023 &
Appeal No. 34/252(3)/JPR/2022*

IN THE MATTER OF:

SHML INFRA PRIVATE LIMITED
CIN-U24299RJ2021PTC074309
R/o -02, Bagdon a Bas, Harvanshpura,
Jaisinghpura, Teh. Sanganer-Jaipur-302026

Through its Director & Shareholder

Mr. Murarilal Khairari,
116/1 Hari Marg, Civil Lines,
Jaipur-302006

.....Applicant

VERSUS

The Registrar of Companies, Jaipur

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

.....Respondent No. 1

**The Assessing Officer,
Income Tax Department, Rajasthan,
Ward No. 7(2), C-95, Baba Siddhinath Bhawan,
Lal Kothi, Jaipur – 302005**

.....Respondent No. 2

FOR THE APPELLANT(S) : Puneet Gupta, 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 **SHML Private Limited** ('Company'), through its Shareholder and Director, Mr. Murarilal Khairari ('Appellant') 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 in non-filing of declaration as required under Section 10A of the Companies Act, 2013 in E-Form INC-20A. The name of the Company is stated in Form STK-7 dated 24.11.2022, a copy of which is attached as Annexure -6 at page no. 44 of the Appeal.
3. The main object of the Company is to produce, manufacture, treat, process, prepare, refine, import, export, purchase, sell and generally to deal in either as principals or as agents either solely or in partnership with others, all types and kinds of motor mixer, dry powder motor mixer, putty powder, decorative mortar, masonry coating, plastering mortar, mortar required for thermal insulation system, POP, ready mix concrete, water proofing, tile

adhesive, alumina, blast furnace, silica and all other varieties of cement, lime and limestone, clinker and / or by-product thereof, as also cement products of any or all descriptions, such as pipes, poles, slabs, asbestos sheets, blocks, tiles, garden wares, plaster of paris, lime pipes, building materials and otherwise, and articles, things, compounds and preparations made from chemical products which are connected with aforesaid products, and in connection therewith to take on lease or otherwise acquire, erect, construct establish, work , operate and maintain factories, quarries, mines and workshop.

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 Income Tax Returns of the company for the assessment year 2022-23 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-7 at Page No. 45-48 of the Appeal.
6. The RoC has filed a report *vide* Diary Number 37/2023 dated 06.01.2023 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. 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.
8. Accordingly, this Appeal is allowed and the restoration of the Appellant Company's name, i.e. M/s **SHML Infra 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 incorporation of the Company to the till date**, and filing of E-Form INC-20A under section 10A of the Companies Act, 2013 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.
9. 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.

10. Certified copies of this order be communicated by the Registry to the Appellant, and the Registrar of Companies, Jaipur.

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In view of the foregoing order, the above-mentioned IA, wherein the appellant pleaded for an early hearing of the matter has become infructuous and is disposed of accordingly.

(Deep Chandra Joshi)
Judicial Member

(Prasanta Kumar Mohanty)
Technical Member