

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

Appeal No.07/ALD/2023

In the matter of

*An application under Section 252 (1) of the Companies Act, 2013
read with Companies Rules, 2016.*

IN THE MATTER OF:

SATHI BATTERY PRIVATE LIMITED

Having it's Registered office at B-3/G-1,
DLF-II, Ghaziabad, UP 201005

.....Appellant

Versus

REGISTRAR OF COMPANIES,

KANPUR, UTTAR PRADESH

Having office at Westcott Building,
The Mall, Kanpur, UP-208001, India

.....Respondent

Order pronounced on 16th April, 2024

Coram:

Mr. Praveen Gupta.	:	Member (Judicial)
Mr. Ashish Verma	:	Member (Technical)

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Appearances:

Sh. Anuj Kumar with : *For the Appellant*
Sh. Srijan Mehrotra, Adv.
Sh. Shivendra Bahadur Singh, CGSC : *For the ROC*
Sh. Niraj Kr. Singh, Adv. For : *For the IT Department*
Sh. Gaurav Mahajan, Sr.S.C.

ORDER

1. This appeal has been filed on 20.01.2023 U/s 252(1) of the Companies Act, 2013 by M/s Sathi Battery Private Limited (hereinafter referred as the Appellant Company) through its Director Shri Hari OM against the order of Registrar of Companies, Uttar Pradesh, Kanpur (hereinafter referred as the Respondent/ROC) passed, vide order dated 18.10.2022 in STK 7 striking off the Appellant Company from the Register of Companies from the date of publication of this order and the said company is also dissolved due to not filing of Form 20A informing about subscription of share capital and starting of the business and then making a prayer for restoring the name of the company in the Register of Companies.
2. As averred in the appeal documents that the Appellant Company was incorporated on 09.02.2021 having CIN No.

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U50400UP2021PTC141582 and the registered office at B-3/G-1, DLF-II, GHAZIABAD, Ghaziabad UP 201005 with authorized share capital of Rs.1 lakh divided into 10,000 equity share of Rs.10/-. It is also mentioned in the appeal that issued subscribed and paid-up Share capital of the Appellant Company is Rs.1 lakh.

3. As per the memorandum of association of the Appellant Company the main object for the operation of the Company, is trading of electric vehicle, parts, battery and related works. It is contended by the Appellant Company in the appeal document that they had been regularly involved in carrying on the business since its incorporation as per the provisions of the Companies Act, 2013 but due to some unavoidable circumstances, they could not file the requisite Form 20A required to be filed with ROC informing about subscription of share capital and starting of the business. It has also been shown by the Appellant Company in the Appeal Document that as per the Balance Sheet dated 31.03.2022, it has “Current Assets, Loans and Advances” of Rs. 43,03,429/-, “Cash and Bank Balance” of Rs. 89,589/- and Total

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Income/Turn Over” of Rs. 28,68,888/-. It also has a bank account in Yes Bank having regular business transactions. Thus, it has been demonstrated that the Appellant Company is actively involved in running of the business. However, due to the fault & negligence on the part of the management, Form 20A along with Annual Return and Balance Sheet for the year 2021-22 and MGT-7A and AOC-4 for the year 2021-22 and other necessary documents required by the Companies Act, 2013, could not be filed with the office of ROC resulting into striking off the Appellant Company from the Register of Companies maintained in the office of ROC. Now, the Appellant Company has pleaded to be willing to file Form 20A and up to date annual returns and Balance Sheet etc. till 2022 as may be required under the provisions of the Companies Act, 2013 with all requisite fees along with the additional fees as provided in the Companies Act, 2013 to the Registrar of Companies immediately, once the name of Appellant Company is restored on the Register of Companies maintained by the Registrar of Companies, Uttar Pradesh, Kanpur on its MCA portal. Therefore, prayer has been made in the appeal to pass an order for restoration of the name of

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the Appellant Company i.e. **“M/s Sathi Battery Private Limited”** in the Register of Companies maintained by the office of ROC, Uttar Pradesh, Kanpur at Kanpur, so that necessary statutory compliances as per the Companies Act, 2013 can be made.

4. We have found that the company’s name was struck off on 18.10.2022 and this appeal is filed on 20.01.2023, hence, the same is filed within the statutory time limit of three years and accordingly, this appeal is found to be maintainable, therefore, notice has been issued to the ROC Uttar Pradesh, Kanpur as well as to the concerned Assessing Officer of the Income Tax Department through the Nodal Officer Principal Chief Commissioner of Income Tax, Lucknow calling for their reply/report on restoring of the name of the Appellant Company in the Register of Companies maintained by the ROC, Uttar Pradesh, Kanpur to satisfy ourselves whether such restoration of the name of the Appellant Company is in the interest of justice and in public interest after ascertaining that the ground on which the order was passed by the Registrar of Companies is justified or not.

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5. In its report filed by the ROC, Uttar Pradesh, Kanpur vide its report filed before us on 13th July, 2023, the ROC has justified striking off the name of the Appellant Company stating that the company has not filed its declaration U/s 10A of the Companies Act and has also not sought the commencement of business certificate under the Companies Act, 2013 and hence, the company cannot legally conduct its business. It is also reiterated that the show cause notice was issued in July, 2022 to the company to adhere to the provisions of the Section 10A of the Companies Act, 2013 giving them good opportunity to comply with the provisions of the Act or to reply to the show cause notice issued. However, no compliance was made by them, therefore, the ROC opposed restoration of the name of the company stating that they should not be allowed to restore the company. Despite opposing the restoration of the name of the company, the ROC has further stated in the report that the matter may be decided on its merit, subject to assurance by the company to file all the pending statutory returns and making of all the compliances of the Companies Act, 2013 and requisite fees/fines are paid. Therefore, we find that the ROC is not

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averse to the prayer of the Appellant Company for restoring of its name provided the statutory compliances are made by them after paying requisite fees/fines. In this regard, the Appellant-Company has also filed an affidavit that any penalty required to be paid by the company for non-compliance in filing of Form 20A and any other statutory compliance, would be paid as per law.

6. The Income Tax Department in its report filed on 18.10.2023 has reported that the Appellant Company has filed its Income Tax Returns for Assessment Year 2022-23 and on perusal of the details, it is revealed that the total turnover of the Appellant Company for the year ending on 31.03.2022 is Rs. 28,68,888/-. It is also mentioned in the said report that as per departmental portal, a demand of Rs.7680/- is outstanding against the company in respect of Assessment Year 2022-23. It is further stated in the report of the Income Tax Department that in case, the name of the company is restored, the same should be subject to the necessary compliance of Income Tax Law to be made by the Appellant Company and the outstanding demand is paid.

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7. During the hearing, the Ld. Counsel representing the Appellant Company informed that the share subscription money has already been deposited by the promoters of the Appellant Company and it is only with regards to the non-compliance in respect of filing of the Form 20A due to which the Company has been struck off. As regards, the pending income tax demand, it has been agreed that the same will be paid after the name of the company is restored.
8. Considering the facts and circumstances of the case as discussed in foregoing paras, we allow the instant appeal to the extent of directing the ROC, Uttar Pradesh, Kanpur to restore the name of the Appellant Company on the Register of Companies in the same position as nearly as may be as if the name of the company had not been struck off from the Register of Companies, changing the status of the Appellant Company from “**struck off**” to “**active**” and take such further action against the Appellant Company in accordance with the statutory provisions.

9. Taking into account the report of the ROC as discussed in para 10, the restoration of the Company's name will be subject to the payment of the cost of Rs.25,000/- through online payment in *www.mca.gov.in* under the head "*miscellaneous fees*" by mentioning particular as "*Payment of cost for restoration of the company pursuant to orders in Company Appeal No.07/ALD/2023*" and also to make payment of Rs.25,000/- to the Prime Minister National Relief Fund.
10. This Appeal is disposed of on the terms directed above. The ROC shall give effect to this order only after perusal of the compliance report of the cost imposed. After due compliance with the above directions, the ROC, Uttar Pradesh, Kanpur shall publish the order for restoration of the name of the company in the Official Gazette under its office name and seal. The Appellant Company is directed to file all the statutory documents including Form 20A, Annual Accounts and Annual Returns along with the prescribed fees and additional fees as ordered by the ROC, Uttar Pradesh, Kanpur as applicable under the Companies Act, 2013 within

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45 days from the date on which its name is restored on the Register of Companies maintained by the Registrar of Companies, Uttar Pradesh, Kanpur. They shall also fulfill all the other relevant statutory compliances, such as under the Companies Act, 2013 and the Income Tax Act, 1961, etc. The Appellant Company shall also pay the outstanding income tax demand of Rs.7680/- as reported by the Income Tax Department. 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 the Companies, Uttar Pradesh or any other concerned Government Authority to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the Appellant Company prior to or during the period the name of the Company remained struck off.

- 11.** The Registry is directed to send copies of the order through email forthwith to all the parties in the matter.

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12. The appellant company is directed to deliver a certified copy of this order to ROC, Uttar Pradesh, Kanpur within 30 days of the receipt of the order.
13. Certified copy of the order be issued upon making an application by any concerned party with all requisite formalities.
14. Company Appeal No.07/ALD/2023 stands disposed off accordingly.

-Sd-

(Ashish Verma)
Member (Technical)

-Sd-

(Praveen Gupta)
Member (Judicial)

Date: 16th April, 2024