

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH, COURT-II**

CP No. 134/KB/2023

***An application under Section 252(3) of the Companies Act, 2013
for restoration.***

In the matter of:

**Bhikhnathori Developers Private Limited.
(CIN:U45200BR2014PTC022938)**

..... Struck Off

In the matter of:

Syed Nayab Hashmi, Director/ Share Holder of the company.

....Appellant/Petitioner

-Versus-

THE REGISTRAR OF COMPANIES, BIHAR

.....Respondent

Date of Pronouncement: 25/04/2024

CORAM:

- 1. Smt. Bidisha Banerjee, Member (Judicial)**
- 2. Shri D. Arvind, Member (Technical)**

Appearance via (Hybrid Mode)

None of parties

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Company Petition has been filed by one of the Directors/ Share Holders of **Bhikhnathori Developers Private Limited**, u/s 252(3) of the Companies Act, 2013 for restoration of name of the Struck off company in the register of the Companies, maintained in the office of the Registrar of Companies, Bihar. It is stated that the name of the company was struck off on **30.10.2019**.
2. It is contended that the company has not filed the financial Statements for the financial years ended **2017, 2018, 2019, 2020, 2021, 2022 and 2023** and Annual Returns of the Company for the financial years ended **2017, 2018, 2019, 2020, 2021, 2022 and 2023** and, the delay in filing the Financial statements and Annual Returns is due to non-filing of declaration with the Registrar by the Company and also due to inadvertent and unintentional mistakes and has now produced copies of the said financial statements.
3. It is further contended that the Company has Liabilities of Rs. Rs.2,74,487.79/- and Assets of Rs.2,74,487.79/-for the Financial year ended on 31.03.2022 and it will be unfair to company if the company is struck-off. Upon the said contentions, the Ld. Counsel for the Petitioner prayed for passing of an order for restoration of the name of the appellant company.
4. Notices were issued to the Registrar of Companies, Bihar. The Registrar of Companies, Bihar has submitted a report. It was stated in the report that only after the compliance of requirements to be met under Section 248 of the Companies Act, 2013, Registrar of

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Companies, Bihar has struck off the name of the Company from the register.

5. The Registrar of Companies, Bihar has not objected to this application for restoration of the name of the company. We feel that whereas the reasons given for non-filing of declaration with the Registrar by the Company as being inadvertent and unintentional mistakes are not substantive, however considering the submission of the Ld. Advocate that there are current liabilities of the company that need to be extinguished, it is just that the name of the Company is restored. Accordingly, in exercise of the powers conferred on the Tribunal under Section 252 of the Companies Act, 2013, the petition is allowed on the Following terms:

- a) The Registrar of Companies, Bihar, the respondent herein, is directed to restore the original status of the petitioner company as if the name of the Company had not been struck off from the register of Companies with the resultant and consequential actions like changing status of petitioner company from **'Struck off' to 'Active'**.
- b) The Petitioner Company is directed to file all pending statutory document(s) including Annual Accounts for the period of **2017, 2018, 2019, 2020, 2021, 2022 and 2023** and Annual returns for the period **2017, 2018, 2019, 2020, 2021, 2022 and 2023** along with prescribed fees/additional fee/fine as decided by Registrar of Companies, Bihar within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, Bihar.
- c) The restoration of the Company's name is also subject to the payment of cost of Rs. **50,000/- (Rupees Fifty Thousand Only)** through online payment in www.mca.gov.in under miscellaneous fee by mentioning

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particulars as “Payment of cost for restoration of company pursuant to orders of NCLT in **C.P. No. 134/KB/2023.**”

- d) The petitioner is directed to deliver a certified copy of the order with Registrar of Companies, Bihar within thirty days of the receipt of this order.
- e) On such delivery and after due compliance with the above directions, the Registrar of Companies, Bihar is directed to publish the order in the Official gazette under his office name and seal;
- f) 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 Registrar of Companies, Bihar to take appropriate action(s) in accordance with the law, for any other violations/offences, if any, confirmed by the Appellant company prior to or during the period the name of the Company remained Struck off.

6. The **C.P. No. 134/KB/2023 is disposed** of accordingly.

7. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the counsel.

8. Urgent certified copies of this order, if applied for be issued upon compliance with all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed this, on the 25th day of April, 2024

NKS(LRA)