

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court-I)  
KOLKATA  
Appeal No. 179/KB/2022

*A petition under section 252 (1) of the Companies Act, 2013.*

**In the matter of**

**DCIT Circle 7(1)**, Kolkata having its office at P-7, Chowringhee Square 5<sup>th</sup> Floor, Room No. 5/10, Kolkata-700069

**...Appellant**

*Versus*

- 1. The Registrar of Companies**, West Bengal, having its office at 234/4, Acharya Jagadish Chandra Bose Road, 2<sup>nd</sup> Floor, Nizam Palace, 2<sup>nd</sup> MSO Building, Kolkata-700020.
- 2. Sizzler Foods Private Limited**, a company incorporated under the Companies Act 1956, and is a company within the meaning of the Companies Act 2013, having Corporate Identification No.- U55101WB1995PTC072546 and having its registered office at 27/2 & 28 Bidhan Sarani, Kolkata-700006.
- 3. Mr. Bijay Krishna Gupta**, working at 3, Raja Gopi Mohan Street, Kolkata-700001, West Bengal.
- 4. Mr. Rajiv Jayaswal**, working at 8B, Vaishnav Sammilani Street, Kolkata-700006, West Bengal.

**...Respondent**

**Date of Hearing: 15/09/2022**

**Date of Pronouncement: 23/09/2022**

**Coram:**

**Shri Rohit Kapoor, Member (Judicial)**

**Shri Balraj Joshi, Member (Technical)**

**Appearances (via Hybrid Mode):**

Mr. Ashok Prasad ] For the petitioner

Mr. M.K. Barua, ARoC ] For the respondent

**ORDER**

**Per: Balraj Joshi, Member (Technical)**

1. This Court convened through hybrid mode. This is an appeal preferred by Income Tax Officer, Ward 7(1), Kolkata under Sec. 252 (1) of the Companies Act, 2013 for restoration of the name of the company M/S. SIZZLER FOODS PRIVATE LIMITED in the register of Registrar of Companies, West Bengal.
2. Ld. Counsel for the Appellant and Respondent appears.
3. The aforesaid company was struck off on 24<sup>th</sup> August 2018 and a notice was officially published in the Official Gazette on 8<sup>th</sup> September 2018.
4. The appellant contends that the name of the Respondent Company had been struck off by the Registrar of Companies, West Bengal, in compliance with the provisions under Section 248(1) of the Companies Act, 2013 thereby the name of the respondent company had been removed from the Register of Companies and the said company was dissolved.
5. The appellant further contends that the proceedings under Section 154 & Section 143(1) of the Income Tax Act, 1961 are pending for Assessment Years 2006-07, 2008-09, 2009-10 against the company and during the pendency of proceedings, the name of the respondent company had been struck off. Aggrieved by the order of striking off the name of the company, this application was filed by the Income Tax Officer praying for the restoration of the respondent company to the register of Registrar of Companies and further to rectify the Master Data by modifying the status from '**struck off**' to '**active**'.

6. Notices were issued to the Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal has filed its report submitting that it has no objection to the application being allowed.
7. Registrar of Companies, West Bengal in its report has mentioned that it has '**No Objection**' to the name being restored. Upon hearing the arguments advanced on the side of the appellant, we are satisfied that it is just and equitable that the name of the respondent company is restored to the Register of Companies since the proceedings under the Income Tax Act, 1961 are pending for the Assessment Years 2006-07, 2008-09, 2009-10 against the Company. In these circumstances, if the name of the company is not restored it would cause great prejudice to the appellant and loss of Revenue to the exchequer.
8. In the result, the appeal is allowed by restoring the name of the company in the register of the Registrar of Companies, West Bengal with a direction to modify the status of the company from 'struck off' to 'active' within 30 days from the date of receipt of this order.
9. Appeal No. 179/KB/2022 is allowed and disposed of.
10. There shall be no order as to costs.
11. Certified copy of the order will be provided to the petitioner forthwith. Certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Balraj Joshi)**  
**Member (Technical)**

**(Rohit Kapoor)**  
**Member (Judicial)**

Order signed on 22<sup>nd</sup> day of September 2022

Ankita S. LRA