

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

*An application under Section 252(3) of the Insolvency and Bankruptcy Code,
2016*

In the matter of:

Edusolve Edutech Private Limited (CIN: U80301WB2020PTC239219)

...STRUCK OFF

In the matter of:

Md Rakesh Hossain Molla, Shareholder of the company

...APPELLANT/PETITIONER

-Versus-

The Registrar of Companies, West Bengal

...RESPONDENT

In the matter of:

1. Edusolve Edutech Private Limited

...STRUCK OFF

2. Md. Rakesh Hossain Molla

...APPELLANT/PETITIONER

3. The Registrar of Companies, West Bengal

...RESPONDENT

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)

Appearances (via Video Conferencing/Physical):

Mr. Arisankala Manish Kumar, PCS] For the Petitioner

Ms. Anita Barla, AROC] For the office of RoC, W.B

Date of Pronouncement of Order: 01.04.2024

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. The Court congregated in hybrid mode.
2. Heard, Ld. Authorised Representative for the parties present.
3. This Company Petition has been filed by one of the Share Holders of **Edusolve Edutech 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, West Bengal. It is stated that the name of the company was struck off on **07.11.2022**.
4. It is contended that the company has not filed the Financial Statements for the Financial Years 2021-2022 and 2022-2023 and Annual Returns of the Company for the Financial Years 2021-2022 and 2022-2023, the delay in filing the Financial statements and Annual Returns is due to non-filing of statutory documents by the company and failed to submit Form INC 20A for declaration of commencement of business with the Registrar of Companies, West Bengal (respondent) within the stipulated timeline.
5. Notices were issued to the Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal has submitted a report. It was

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

stated in the report that only after the compliance of requirements to be met under Section 248 of the Companies Act, 2013, Registrar of Companies, West Bengal has struck off the name of the Company from the register. It is further seen from the balance-sheet of the company filed along with petition that the company has earned a revenue of Rs.36,09,586/- in the year 2022 and, therefore, the company is conducting an active business.

6. The Registrar of Companies, West Bengal has not objected to this application for restoration of the name of the company. We feel that whereas the reasons given for due to non-filing of statutory documents by the company and failed to submit Form INC 20A for declaration of commencement of business with the Registrar of Companies, West Bengal (respondent) with the stipulated timeline is not satisfactory and therefore the company is liable for paying a fine in terms of the stipulation of Section 10A of the Companies Act 2013. However, considering the submission of the Ld. Advocate that the company is in the active business and that there are current liabilities of the company that need to be extinguished, it is just that the name of the Company is restored.

7. 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:

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

- a) The Registrar of Companies, West Bengal, 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 documents including Annual Accounts for the period of 2021-22 and 2022-23 and Annual returns for the period of 2021-22 and 2022-23 along with prescribed fees/additional fee/fine as decided by Registrar of Companies, West Bengal within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, West Bengal.

- c) The restoration of the Company's name is also subject to the payment of cost of Rs. 30,000/- (Rupees Thirty Thousand Only) through online payment in www.mca.gov.in under miscellaneous fee by mentioning particulars as "Payment of cost for restoration of company pursuant to orders of NCLT in C.P. No.194/KB/2023."

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

- d) Further the company shall also pay a fine of Rs.5,000/- as envisaged under Section 10A of the Companies Act 2013 under appropriate head of account as directed by RoC.

- e) The petitioner is directed to deliver a certified copy of the order with Registrar of Companies, West Bengal within thirty days of the receipt of this order.

- f) On such delivery and after due compliance with the above directions, the Registrar of Companies, West Bengal is directed to publish the order in the Official gazette under his office name and seal;

- g) 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, West Bengal to take appropriate actions 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.

8. The C.P. No. 194/KB/2023 is disposed of accordingly.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

C.P. No. 194/KB/2023

9. The Registry is directed to send e-mail copies of the order forth with to all the parties inclusive of the counsel.

10. 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 on this, 1st April, 2024.

SG, (Steno)