

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT NO. I)
KOLKATA**

Company Petition no. 211/KB/2023

A petition under Section 252 (3) of the Companies Act, 2013 and National Company Law Tribunal Rules, 2016 and Rule 87A of the National Company Law Tribunal Amendment Rules, 2017.

IN THE MATTR OF:

M/s TAIMUR BUILDERS & CONSTRUCTION PRIVATE LIMITED (CIN No.: U45400WB2021PTC242348), a company incorporated under the Companies Act, 2013 and having its Registered Office at 32/B, Beniapur Road, Kolkata - 700014.

... **Struck Off Company**

And

IN THE MATTER OF:

SMT. ZARQA AZMI (holding 8,000 shares) presently residing at 60A, Beniapur Road Intally, Kolkata- 700014, being shareholder of M/s TAIMUR BUILDERS & CONSTRUCTION LIMITED (struck off), a company incorporated under the Companies Act, 2013 and having its Registered Office at 32/B, Beniapur Road, Kolkata - 700014.

... **Petitioner**

Versus

The Registrar of Companies, West Bengal, having its office at Nizam Palace, 2nd MSO Building, 2nd Floor, 234/4, Acharya Jagadish Chandra Bose Road, Kolkata – 700020.

... **Respondent**

Date of hearing: 02.08.2023

Date of pronouncement of order: 14.09.2023

CORAM:

**SHRI ROHIT KAPOOR, HON'BLE MEMBER (JUDICIAL)
SHRI BALRAJ JOSHI, HON'BLE MEMBER (TECHNICAL)**

Appearance (via video conferencing/physically)

For Petitioner

Mr. Mohan Ram Goenka, Practising Company Secretary

Ms. Sneha Khaitan, Practising Company Secretary

Ms. Urvi Sanghvi, Practising Company Secretary

O R D E R

Per: Balraj Joshi, Member (Technical)

1. This Company Petition has been filed by one of the Shareholders of **Taimur Builders & Construction Private Limited**, under Section 252 (3) of the Companies Act, 2013 for restoration of name of the **struck off company** in the Register of 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**.
2. It is contended that the Company had not filed the Financial Statements and Annual Return for the Financial Year ended 31.03.2022 due to non-filing of Form INC-20A for commencement of business as required under Section 10A of the Companies Act 2013 read with rules, within a period of 180 (one hundred and eighty) days of the date of incorporation of the company due to lack of professional guidance and knowledge of the Companies Act, 2013 as it was a new Company and the Management could not be able to seek professional guidance due to pandemic situation caused by deadly second wave of COVID-19.
3. It is further contended that the Company has Authorised Capital of Rs.10,00,000/- and Paid up capital of Rs.2,00,000/- as per Master Data of the Company and it will be unfair to company if the company is struck off. Upon the said contentions, the Ld. Counsel for the Petitioner has prayed for an order for restoration of the name of the appellant company.
4. Notices were issued to the Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal has submitted a report. It was stated in the report that only after compliance of the 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.
5. The Registrar of Companies, West Bengal has not objected to this application for restoration of the name of the company. We feel that 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:

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- (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 document(s) including Annual Accounts and Annual returns for the period/ Financial Year ended 31.03.2022 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.60,000/- (Rupees Sixty 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. 211(KB)/2023**”. This includes penalty of Rs.50,000/- in terms of Section 10A(2).
 - (d) The petitioner is directed to deliver a certified copy of this order with Registrar of Companies, West Bengal 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, West Bengal 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, West Bengal to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off.
6. The **CP/211(KB)2023** is **disposed of** accordingly.
7. The Registry is directed to send email copies of the order forthwith to all the parties inclusive of the Counsel.

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- 8.** Urgent certified order, if applied for, be supplied to the parties upon compliance of all requisite formalities.
- 9.** File be consigned to records.

**Balraj Joshi
Member (Technical)**

**Rohit Kapoor
Member (Judicial)**

This Order signed on this, the 14th day of September, 2023.

Sayon [Steno]