

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

CP No. 294/KB/2023

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

In the matter of:

EVEREST PHARMACEUTICALS PRIVATE LIMITED,

(CIN:U51909WB1961PTC025046), a company incorporated under the Companies act, 1956 and having its registered office at 71 Indra Biswas Road, kolkata-700037.

..Struck Off

AND

Amita Dhar, resident of 19B, Balaramdey Street, Jorasako, VTC: Beadon Street S.O Kolkata-700006, West Bengal, Being shareholder of Everest Pharmaceuticals Private Limited.

..... Applicant

-VERSUS-

The Registrar of Companies, Kolkata at-Ministry of Corporate Affairs, having its office at 2nd Floor, MSO Building, 234/4 A.J.C Bose Road, Kolkata-700020

..... Respondent

Date of Pronouncement: 7/02/2024

Coram:

Smt. Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

Appearances (via Video Conference):

For Petitioner: Mr. Jishnu Chowdhury, Adv

Mr. Arani Guha, Adv

For ROC,WB: Ms Anita Barla, DROC

ORDER

Per: Bidisha Banerjee, Member (Judicial)

- 1) This Company Petition has been filed by one of the shareholders of **EVEREST PHARMACEUTICALS 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 28.05.2008**.

- 2) It is contended that the Company had not filed the Financial Statements for the financial years ended 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018- 2019, 2019-2020, 2020-2021, 2021- 2022, 2022-2023 and Annual Returns of the Company for the financial years ended 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018- 2019, 2019-2020, 2020-2021, 2021- 2022, 2022-2023, due to lack of knowledge of the Companies Act and has produced copies of the said financial statements. It is further contended that the Company has Reserves & Surplus amounting to Rs. 14,13,825 and other current liabilities amounting to Rs. 5,500 and it will be unfair to the Creditors and the Company if the company is struck-off and the Creditors do not receive their dues. Upon the said contentions, the Ld. Counsel for the Petitioner prayed for passing of an order for restoration of the name of the applicant company.

- 3) 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.

4) ROC West Bengal has not objected to this application for restoration of the name of the company. On perusal of the application, we are satisfied that the name of the company should be restored to the register. Therefore, this petition deserves sympathetic consideration. Accordingly, the present petition is allowed on the following terms:-

- 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 23 years 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. 2,30,000/- (Rupees Two Lakh 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. 294/KB/2023”**.
- 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.
- 5) The C.P. No. 294/KB/2023 is **disposed of** accordingly.
- 6) The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
- 7) Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order Singed on 7th day of February, 2024.

N.K.S(LRA)