

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 43

APPEAL/9(MB)2024

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **26.04.2024**

NAME OF THE PARTIES: **SHIVNARAYAN RAMPRATAP BHUTADA**
V/s REGISTRAR OF COMPANIES

Section 252(3) of the Companies Act, 2013

ORDER

APPEAL/9(MB)2024

- 1) Mr. Yahya Batatawala, Ld. Counsel for the Appellant and Mr. Shivraj C. Ranjeri, Assistant Registrar of Companies h/f Registrar of Companies MCA, Mumbai, are present. Report filed by Assistant Registrar of Companies is available on record.
- 2) The present Company Appeal has been filed by **Shivnarayan Rampratap Bhutada, Shareholder/Director of Richfield Infrabuild Private Limited** under Section 252 (3) of the Companies Act, 2013 praying for restoration of name of the Company in the register of Companies maintained by **Registrar of Companies, Mumbai.**
- 3) It is submitted that the **Registrar of Companies, Mumbai** had struck off the name of the Company from the Register of Companies maintained by him initiated the

process under Section 248(5) of the Companies Act, 2013 through Public Notice in **STK-7 dt. 12.09.2018, in absence of any representation against the proposed strike off action.**

- 4) It is submitted that Authorized Share Capital of the Company is Rs. 5,00,000/- and the Paid Up Capital of the Company is Rs. 1,00,000/-.
- 5) The main objects of the Company is to carry on the business ventures of infrastructure including purchase, acquire, take on lease or in exchange or in any other lawful manner any area, land, building, structures, and to turn the same into account, develop the same and dispose of or provide on lease or on rental or maintain the same and to build townships, mall, shopping complex, multiplex, markets or other building residential and commercial or conveniences thereon and to equip the same or part thereof with all or any amenities or conveniences, drainage facility electric, telephonic. television installations and to deal with the same in any manner whatsoever including provide on lease, rental, out rightly sale or provide the same on profit sharing or otherwise ratio with the tenants.
- 6) It is submitted that the company is well active company; however, the name of company has been struck off from the record of the company. The Company has also been maintaining the statutory records as per Companies Act, 2013. The company had every year conducted the Annual General Meeting of the shareholders of the company and adopted the financial statements of the correspondence financial years. That company has convened the Annual General Meetings as per the provisions of Companies Act 2013.

- 7) It is further submitted that there was no Professional person appointed in the company to look after the ROC compliances, the Appellant could not file its financial statements to Registrar of Companies on time and delay was caused in filing the financial statements to Registrar of Companies, Mumbai. Petitioner also submits that there was no *mala fide* intention or ulterior motive on the part of Company behind delay in filing of Financial Statement. Further there was no intention of Company to defraud its Creditors, Shareholders, Directors or other Government Agencies by delaying the filings and the delay was purely unintentional and inadvertent.
- 8) It is also informed that the Company was carrying out business activities. The Financial Statements for the year ended on 31.03.2016 to 31.03.2023 are duly audited by the Statutory Auditors of the Company and The Company assures that it will take due care and caution henceforth in timely compliance of the various applicable provisions.
- 9) Hence, the present Company Appeal for restoration of name of the Company in the register of Companies maintained by the Registrar of Companies.
- 10) The Respondent herein has also filed and placed on record their Report. The only contention of the Respondent is that the Company has failed to comply Statutory Compliances under the Companies Act, 2013, thereby not filing its Statutory Returns for a continuous Period of more than Two Years and also in absence of any representation against the proposed strike off action, the

Respondent struck off the name of the Company on 11.09.2018 and the dissolution order was published on the website of Ministry on 12.09.2018, *vide* STK-7.

11) Having considered the pleadings and upon going through the averments made in the present Appeal, we are satisfied with the reasons shown by the Appellant for Restoration of the name of the Company in the Register of Companies maintained by the Respondent. We accordingly pass the following order.

ORDER

The Appeal be and the same is allowed. The impugned order of RoC striking off the Company's name is set aside. The prayer for restoration of the name of the Company in the register of companies is allowed. The name of the Company be restored in the Respondent's Register of Companies, subject to the following.

- i. The Appellant shall pay a sum of ₹. 80,000/- (Rupees Eighty Thousand Rupees) towards costs of this Appeal in Bharatkosh, after taking into consideration Size, Operation and Conduct of the Company.
- ii. The Appellant shall within two months hence file all the pending Financial Statements and Annual and Statutory Returns with the Respondent as required under the Act and Rules made thereunder.
- iii. The Appellant shall within 30 days deliver a certified copy of the order to the jurisdictional Registrar of Companies. The

Company's Representative who has filed the Company Appeal on behalf of the Company, is directed to personally ensure compliance of this order;

- iv. Upon compliance, the Respondent on receipt of the Order shall in his official name and stamp publish the order in the official gazette and restore the name of the Company in the Register of Companies forthwith.
- v. The Order however shall not fetter the authority of the Registrar of Companies to take appropriate action against the Company for any other violation either prior to the date of striking off the name of the Company or in the interregnum.
- vi. Needless to say, failure to comply with any of the above conditions would nullify the effect of this order.

12) With the aforesaid observations and directions, the **Company Appeal bearing No. 9 of 2024 is disposed of as Allowed.**

13) Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Vedant Kedare

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)