

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-V**

CA No. 19/252/MB/2024

Under Section 252(1) of Companies
Act, 2013

In the matter of

KINITA REAL ESTATE PVT LTD
Shop k1-04, Gokul Village (Two) Hsg.
Society Ltd, Balaji Hotel Shanti Park,
Mira Road(East), Thane, 401 107.

In the matter of

Sunil Basant Rajbhar,
Represented by its Director,
Shop k1-04, Gokul Village (Two) Hsg.
Society Ltd, Balaji Hotel Shanti Park,
Mira Road(East), Thane, 401 107

... Appellant/ Petitioner

V/s.

**THE REGISTRAR OF COMPANIES,
MUMBAI**

100 Everest, Marine Drive,
Mumbai 400 002

... Respondent

Order dated on.01.05.2024

Coram:

Reeta Kohli , Hon'ble Member (Judicial)

Madhu Sinha, Hon'ble Member (Technical)

For the Applicant:, Advocate

ORDER

1. This present appeal has been filed under Section 252 of the Companies Act, 2013 (hereinafter as Act) by "M/s. Kinita Real Estate Private Limited", having share capital of the Company is Rs.67,50,000 divided into 6,75,000 equity shares of Rs. 10/- each and the paid up Share Capital of the Company is Rs. 61,60,260/- divided into one class of 6,16,026 equity shares of Rs. 10/- seeking relief against the respondent, *inter-alia* among other things, to restore the name of the company in the Register of Companies maintained by the Registrar of Companies, Mumbai and allow filing of the annual return for the financial year from 2017-2018 to 2022-2023.
2. The name of the Company was struck off from the Register of ROC Mumbai on account of the reasons that, the Company has failed to file of its statutory returns for a continuous period of more than five years and have not made any application within such period for obtaining the status of Dormant Company under Section 455 of the Act. The ROC has published a public notice for Striking off and Dissolution of Company i.e. STK-5 dated 04.02.2022 and STK 7 on 07.04.2022.

Submissions from the Appellant:

1. It is submitted that the company was incorporated on 25th September 2009 as a Company limited by shares under the Companies Act, 1956. The Company was registered with the Registrar of Mumbai, having CIN U45202MH2009PTC196062. The name of the Company was struck off from the Register of companies because the Company failed to file of its statutory returns for a continuous period of more than five years. It is further submitted that, the Company never received any show cause notice from the MCA/ROC.
2. It is further submitted that the Appellant Company did not comply with the annual filing provisions as per section 92 and 137 of the Companies Act, 2013 due to inadvertence.
3. It is Appellant further submitted that, the Company is ready to comply with the relevant provisions of Companies Act,1956 read with companies Act 2013, Further the Company is willing to file the necessary Documents and Forms in compliance with the provisions of the Companies Act,2013 before the ROC Mumbai.

Submissions from the Respondent/RoC:

4. The Respondent/ ROC has prepared a detailed report and have submitted the same in affidavit in reply to this Tribunal, explaining the sequence of events leading to the striking off of the company. It is stated that the appellant has failed in filing of its statutory returns for a continuous period of more the five years as per the provisions of the Companies Act, 2013 undertaken at time of incorporation and hence, the Company had been considered for being struck off by the Registrar of Companies, Mumbai, in *suo moto* action under the provisions of Section 248 of the Companies Act, 2013 and also in pursuance of the circulars issued by the Ministry of Corporate Affairs, Government of India, New Delhi from time to time.

5. The Respondent side issued notice STK-1. The RoC/Respondent had issued a public notice in Form STK-5 dated 04.02.2022 in a leading English newspaper (*Times of India*) and in vernacular language newspaper (*Maharashtra Times-Marathi*) on 16.04.2022, seeking objections against the proposed striking off of the name of the Company from the Records of the Registrar of Companies.
6. RoC/Respondent further submitted that in absence of any representation against the proposed strike off action, and the documents required to be submitted by the Appellant not being filed with the Registrar, the Registrar struck off the name of the company under section 248 of the *Companies Act, 2013* on 31.03.2022 and the dissolution order was published on the website of the Ministry vide STK -7 on 07.04.2022.

Findings:

7. The facts and circumstances of the case show that the relevant documents and forms which are to be filed , are ready with the Company and the Company is willing to file the same, if so permitted by the Company.
8. The Appellant has enclosed the Audited Annual Accounts for the years 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022 and 2022-2023 with the Appeal to demonstrate that the Company is in continuous operation.
9. Hence, upon considering the facts and circumstances of this present appeal, this Bench observes that, the appeal has been filed within a period of three (3) years by the Director of the Kinita Real Estate Private Limited before the Tribunal as per the provision of 252(1) of the *Companies Act 2013*. This Bench is therefore of the view that, it would be just and proper to order restoration of the name of the Company in the Register of Companies maintained by the ROC Mumbai.

10. Consequently, the Appeal is ordered to be **Allowed** on the following terms:

- a. The restoration of the Company's name in the Register of Companies maintained by the ROC Mumbai, is hereby ordered, to be replaced **subject to payment of cost of Rs. 25,000/- per Financial year for Non-Compliance i.e. from the year 2017-2018 to 2022-2023 which is a default of Six (6) Financial years therefore (25,000 x 6 years =1,50,000) totaling amount of Rs. One Lakhs Fifty Thousand to be deposited in "PM Relief Fund" through 'Bharat Kosh'**. The appellant Company shall undertake to abide by the Provisions of the Companies Act, 2013. Consequentially thereupon the Bank Account/s if frozen on amount of non-compliance, be defreezed and allowed be operated by the Company.
- b. The Registrar of Companies, Mumbai shall give effect of this Order only after perusal of the Compliance report of the cost imposed. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by ROC.

Sd/-

**Madhu Sinha
Member (Technical)**

Sd/-

**Reeta Kohli
Member (Judicial)**

/Priyanka/