

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

222. CP/392(MB)2021

IN THE MATTER OF

Vishwasindhu Restaurants Private Limited ... Petitioner

Vs

Registrar Of Companies Pune ... Respondent

U/s 252(1) of the Companies Act, 2013

Order Delivered on 06.03.2024

CORAM:

MS. REETA KOHLI,
MEMBER (J)

MS. MADHU SINHA,
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner: ADV G. R. KENDRE (VC)

For the Respondent:

1. The present petition is filed through the Director of “*Vishwasindhu Restaurants Private Limited*” against the action of ROC in striking of the name of the company from the Register of Companies by issuing the Official Gazette notification on 11.07.2017 due to non-filing of financial statements and annual returns for the financial years 2013-14, 2014-15 and 2015-16.
2. The case of the Petitioner is that the Applicant “Vishwasindhu Restaurants Private Limited” is a going concern having duly complied with the provisions of the Companies Act, 1956 as well as Companies Act, 2013. The Applicant Company has been holding regular Annual General Meetings since 2012 onwards.
3. It is further submitted that the Petitioner company did not comply with the annual filing provisions as per section 92 and 137 of the Companies Act, 2013 due to inadvertence.

4. Moreover, the Company is the owner of the plot situated at Rameshwar, Taluka-Devgad, District-Sindhudurg having book value of Rs.4,26,000/-. The main object of the company is to carry on business of hotels, restaurants, cafes, holiday camps, resorts, taverns, beer-house, refreshment rooms, night clubs, cabarets and swimming pools and Turkish baths and lodging or apartment house keepers, licensed victuallers, wine, beer and spirit merchants, brewers, distillers, bakers and confectioners, importers and manufactures of aerated mineral and artificial water and other drinks. Further the Petitioner Company proposed to build a restaurant on the said plot and thus the prayer is for setting aside the order of striking of the Petitioner Company to the active status. So as to enable them to serve the immovable property under the ownership of Petitioner Company.
5. The Petitioner Company submits that it is ready and willing to comply with the relevant provisions of Companies Act 2013. Further the Petitioner Company submits that it shall file the necessary Documents and Returns in compliance with the provisions of the Companies Act,2013 before the ROC Pune.
6. On the other hand, the case of the Respondent/ROC, Pune is that the name of the company was struck down due failure on their part in filing of its statutory returns for the years 2011-2012 to 2019-2020 in terms of the provisions of Section 248 of the Companies Act, 2013.
7. It is further submitted that all the procedural steps and statutory obligations as prescribed under the law before the removal of name of the Petitioner Company have been duly complied with by Respondent/ROC, Pune. No objection/ representation was received by the office of ROC, Pune on behalf of the Applicant against the

striking off action of the Respondent despite the fact that STK-1 notice (regarding removal of name of the Petitioner Company) issued to the Applicant. It is further submitted that the Applicant was given sufficient opportunity after the issuance of notice STK-1 up to Publication of notice STK-7. the Respondent had issued a public notice in form STK-7 dated 11th July 2021. Thus the case of the Respondent is that their action was in terms of law. Thus the Petitioner Company deserves no consideration.

8. After having heard the Ld. Counsels for the parties and after duly appreciating the contentions of the applicant stating therein that they intend to carry on the business on the plot which is an assets of the company situated at Taluka-Devgad, District-Sindhudurg and no prejudice shall be caused to the Respondent if the prayer of the Petitioner Company is granted. Therefore, we deem it appropriate to set aside the order of striking off the name of the Petitioner Company by imposing reasonable penalty. The Applicant is directed to duly comply with all the requisite provisions of law before carrying out the business under various provisions of law after submitting themselves to the adjudication of ROC, Pune.

ORDER

Accordingly, this Petition is allowed. The restoration of the Company's name in the Register of Companies maintained by the ROC Pune, is hereby ordered to be included, **subject to payment of cost of Rs. 25,000/- per Financial year for Non-Compliance i.e. from the year 2011 to 2021 which is a default of Ten (10) Financial years therefore (25,000 x 10 years =2,50,000) totaling amount of Rs. Two Lakhs Fifty Thousand to be deposited in "PM Relief Fund" through 'Bharat Kosh'**. The appellant Company shall undertake to abide by all the Provisions of the Companies Act, 2013. Consequentially thereupon the Bank

Account/s if frozen on account of non-compliance, shall get defreezed and be allowed to be operated by the Company.

The Registrar of Companies, Pune 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 to fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by ROC in terms of law.

Sd/-

Madhu Sinha
Member(Technical)

Sd/-

Reeta Kohli
Member(Judicial)