

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

CA No.: 94/252/MB/C-III/2023

Under section 252(1) of the Companies Act, 2013

In the matter of

MOHAMMAD EBRAHIM

Registered office at; 107, DSK
Madhuban, Wing A-1, Andheri Kurla
Rd, Sakinaka, Andheri East, Mumbai-
400072

.....Appellant

Versus

The Registrar of Companies, Mumbai
100, Everest, Marine Drive,
Mumbai 400002

.....Respondent

Order delivered on: **12.04.2024**

Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearance:

For the Appellant : CS Heena Jaisinghania

For the Respondent : None appeared

Per: Shri. Charanjeet Singh Gulati, Member (Technical)

ORDER

1. This present Petition has been filed under Section 252(1) of the Companies Act, 2013 (hereinafter as Act) by Mohammad Ebrahim, Director & Shareholder of "**M/s. Landmount Infra Private Limited**" (company) praying for restoring its name in the Register of Companies maintained by the Registrar of Companies, Mumbai (hereinafter as ROC).
2. The name of the company was struck off from the Register on account of the reasons of not filing its statutory 20A form for commencement of business for a period of more than a year and further for having not made any application within such period for obtaining the status of Dormant Company under S. 455 of the Act. The ROC has published a public notice for Striking off and Dissolution of Company i.e. STK - 7 dated 17.12.2022.

Submissions from the Petitioners:

3. The Petitioner submits that the company was incorporated on 24.08.2020 under the Companies Act, 2013. It is also submitted that the Company's subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of the company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under subsection (1) of Section 10A of the Companies Act, 2013.

4. The authorised share capital of the Appellant Company is 1,00,000/- divided in to 10,000 equity shares of Rs. 10/- and the Issued, Subscribed & Paid-Up Capital of the Company is Rs. 1,00,000/- divided into 10,000 equity shares of Rs. 10/.
5. The Appellant Company has the following Directors as on date namely:
 - a) Mr. Mohammad Ebrahim (DIN: 06699005)
 - b) Ms. Hajra Begum Mohammad (DIN: 06699028)
6. Further, the Appellant Company has the following Shareholders as on date namely:
 - a) Mr. Mohammad Ebrahim, holding 5000 shares of Rs. 10 each;
 - b) Ms. Hajra Begum Mohammad holding, 5000 shares of Rs. 10 each.
7. The main object of the Company is as follows;

“To carry on the business of Builders, Estate and Infrastructure Developers, Constructions, Landscapers, Civil and Sanitary Works, Repairs and Maintenance in line of infrastructure facilities, Town Planners, Contractors and Sub Contractors, buy, purchase, sell or resale the land and infrastructure facilities whether in residential, commercial or Governmental Sectors in India or outside India”.
8. It is further submitted that, the Company now has all the remaining documents ready and prepared and is willing to file

the same before the ROC, if so permitted. Further the Company is willing to file any other necessary document which are required by the ROC.

Submissions from the Respondent/RoC:

9. The Respondent/ ROC has filed a detailed report to this Tribunal on 01.09.2023, explaining the sequence leading to the striking off of the company. It is stated that the company Landmount Infra Pvt. Ltd which was incorporated with the office of the Registrar of Companies, Mumbai on 24.08.2020 has failed to comply with the statutory compliances under the Companies Act, 2013 by not filing its statutory 20A form for commencement of business for a period of more than a year. The Respondent side issued STK-1 notice to the Company on the ground that, the Company is not filing its statutory 20A form for commencement of business for a period of more than a year and have not made any application within such period for obtaining the status of Dormant Company under Section 455 of the Act and also issued STK-5 dated 01.10.2022.

10. In addition to the publication of the name of the company on web site of the Ministry, the name of the company was also published in official gazette on 23.09.2022 and also public notice was issued in leading English newspaper (Times of India) and a widely circulated vernacular newspaper (Maharashtra Times–Marathi). Respondent further submitted that in absence of any representation against the proposed strike off action, the Registrar of Companies struck off the name of the company on 29.11.2022 and the dissolution order was published on the website of the Ministry vide STK 7 on 17.12.2022.

11. It is also submitted that, the company had failed to comply with the statutory compliances under the companies Act, 2013 by not filing its statutory 20A form for commencement of business for a period of more than a year and therefore, the ROC came to the conclusion that the company has ceased to do its business. Consequently, the name has been struck-off from the Register of Companies by ROC.

FINDINGS

12. We have heard the counsel of the appellant and perused records.
13. The facts and circumstances of the case show that the relevant documents which are required to be filed, are ready with the company and the company is willing to file the same, if so permitted.
14. The petitioner enclosed copy of the Income Tax Returns for the Assessment Year 2021-22 & 2022-23 to show that the company is in continuous operation.
15. The petitioner has also filed details of Capital Work in Progress pertaining to year 2020-21, 2021-22 and 2022-2023 which includes expenditure incurred towards Levelling and Fencing of the land and further the Land on which the work is going on is the Land Purchased by the Appellant Company for Resale as Plots to Customers from whom aggregate amount of monies INR 16,82,19,500/- approx. has been duly received from the customers as advance.

16. Upon considering the facts and circumstances of this present petition, this Bench is of the view that, it would be just and fair to order restoration of the name of the company in the Register of Companies maintained by the ROC.
17. Accordingly, this Petition is allowed. The restoration of the Company's name to the Register of Companies maintained by the ROC, is hereby ordered, with a direction that the Company shall comply with the Provisions of the Act and further it will be subject to payment of costs of **Rs. 25,000/-** for each defaulted year to be paid online to the **Consolidation Fund of India through Bharat Kosh** and submit proof of the same to the concerned ROC, as and when the order gets uploaded on the site of this Tribunal and in any case within two weeks of uploading of this order on the site of this Tribunal. Consequentially thereupon the Bank Account/s if frozen shall get defrozeed and to be operated by the Company.
18. The ROC shall give effect of this Order only after perusal of the Compliance report of cost imposed. The Company is directed to file all the required financial documents upto date and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by ROC.
19. This order is confined to the violation, which ultimately led to the action of striking of the Company, and it will not come in the way of ROC to take appropriate actions(s) in accordance

with law for violation/offense, if any, committed by the appellant company prior to or during the striking of the Company.

20. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.
21. Company Appeal No. 94/252/MB/2023 stands **allowed** and **disposed of** in above terms.

“File to be consigned to Record”

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
---Rajeev---

Sd/-
LAKSHMI GURUNG
Member (Judicial)