

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 17-04-2024 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:

**PRESENT : SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**

APPLICATION NUMBER : --

PETITION NUMBER : Comp.Appeal/30/2023

NAME OF THE PETITIONER : Income Tax Officer

NAME OF THE RESPONDENT(S) : Aniva Global Business Pvt Ltd & Anr

UNDER SECTION : Sec 252 of CA, 2013

ORDER

Ld. Counsel Mr.Raj Kumar Jhabhak appears for the Appellant. Ld. Counsel Ms.Nandhini Agarwal appears for ROC.

This Appeal has been filed by **MR. Santhosh Kumar Meena, INCOME TAX OFFICER**, Corporate Ward – 1(1), Chennai, under Section 252(3)of the Companies Act, 2013, read with Rule 11 &87A of the NCLT (Amendment) Rules, 2017 being aggrieved against the order of Strike Off carried out by the Registrar of Companies, Chennai / Respondent No. 2 (hereinafter R2)under Section 248 of the Companies Act, 2013 for seeking restoration of the name of the Assessee Company / Respondent No. 1 (hereinafter R1) in the Register maintained by the R2/ RoC, Chennai.

2. The brief facts of the matter are tabulated below: -

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S. No.	PARTICULARS	FACT
a)	Name of Company	M/s. Aniva Global Business Private Limited
b)	CIN No.	U52398TN2017PTC114874
c)	Date of Incorporation	09.02.2017
d)	Registered Office Address	Flat S2, Plot No.32, 2 nd Street, Vanasakthi Nagar, Korattur, Thiruvallur, Tamil Nadu – 600 034.
e)	STK-7 Date (Publication Date)	14.02.2022 (19.02.2022)
f)	Reasons for Strike Off	The Company hasn't been carrying on any business or operation for a period of two immediately preceding financial years and have not made any application within such period for obtaining the status of Dormant Company under section 455 of the Companies Act, 2013.

3. It is submitted that the Appellant has passed assessment orders towards escapement of Income Tax and further has pending assessment & penalty proceedings under Income Tax Act, 1961 against the R1 Company.

4. It is submitted that Notices U/s 147, 148 and 274 r/w 271 AAC(1) of the Income Tax Act, 1961 have been issued to the R1 Company. In order to complete the proceedings initiated and recover the tax dues in respect of AY

(Contd...3)

2018 – 2019& AY 2019 - 2020, the company need to be revived from the Status of Struck off.

5. The Notices and Demand analysis, Recoverability status report under Sec 274 r/w 271 AAC(1)&148of Income Tax act, 1961 issued against the R1 company has been extracted as below,



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
CORPORATE WARD 1(1) CHE

Demand Analysis and Recoverability status report

PAN: AAPCA1352B	Name: ANIVA GLOBAL BUSINESS PRIVATE LIMITED	Date of Report: 04/05/2023
Address: CHENNAI-WANAPARTHY BLOCK, CHENNAI, TAMIL NADU		

Summary of Demand

S. No.	AY	DIN	Demand Section	Date of Order	Demand Outstanding (In Rs.)	Amount Difficult to Recover (In Rs.)	Amount Collectible (In Rs.)
1	2018-19	2022201837001800701C	147	30/03/2023	4,47,23,430		4,47,23,430

Analysis of Demand

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX
OFFICER
CORPORATE WARD 1(1) CHE

To,
ANIVA GLOBAL BUSINESS PRIVATE
LIMITED
FLAT S2 PLOT NO 32 2ND STREET ,
VANASAKTHI NAGAR KORATTUR
THIRUVALLUR 600080 , Tamil Nadu
India

PAN: AAPCA1352B A.Y: 2019-20 Dated: 28/03/2023 DIN & Notice No: ITBA/AST/S/148 1/2022-23/1051519836(1)

Notice under section 148 of the Income-tax Act 1961

Sir/Madam/ M/s.

- I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961 (hereinafter referred to as "the Act") for Assessment Year 2019-20
 - information in accordance with the risk management strategy formulated in this regard

suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/AST/F/148A/2022-23/1051519677(1) dated 28/03/2023 and annexed herewith for reference.

- I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2019-20 and I, hereby, require you to furnish, within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2019-20.

SANTOSH KUMAR MEENA
CORPORATE WARD 1(1) CHE



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
CORPORATE WARD 1(1) CHE

To,
ANIVA GLOBAL BUSINESS PRIVATE LIMITED
FLAT S2 PLOT NO 32 2ND STREET, VANASAKTHI
NAGAR KORATTUR
THIRUVALLUR 600080, Tamil Nadu
India

PAN: AAPCA1352B Assessment Year: 2018-19 DIN & Notice No.: ITBA/PNL/S/271AAC(1)/2022-23/1051716731(1) Date : 30/03/2023

Notice under section 274 read with section 271AAC(1) of the Income Tax Act, 1961

Sir/ Madam,

Whereas in the course of proceedings before me for the Assessment Year 2018-19, it appears to me that income determined in your case, includes income chargeable to tax under the provisions of section 115BBE of the Income Tax Act, 1961.

You are hereby requested to appear before me either personally or through a duly authorised representative at 11:00 AM on 11/04/2023 and show cause why an order imposing a penalty on you should not be made under section 271AAC(1) of the Income Tax Act, 1961.

If you do not wish to avail yourself of this opportunity of being heard in person or through authorised representative, you may show cause in writing on or before the said date which will be considered before any such order is made under section 271AAC(1) of the Income Tax Act, 1961.

SANTOSH KUMAR MEENA
CORPORATE WARD 1(1) CHE

6. It is averred that not restoring the struck off company will result in serious losses to the exchequer and enable the defaulting company to go scot-

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free and no amount would therefore be recovered by means of any legal recourse.

7. Upon notice, the R2 / RoC, Chennai filed the Report on 06.03.2024, wherein the crux is extracted as below,

13. The present petition is filed by Shri. Santosh Kumar Meena, in the capacity of Income Tax Officer, Corporate Ward 1(1), Chennai. The Applicant is an Officer of Ministry of Finance, Government of India entrusted with the duties of collecting revenue for the Government. The present application is filed by a Statutory Authority to protect the interest of revenue to the Government. As per the Applicant, the company has committed serious violations of

provisions of Income Tax Act, 1961 and the company is liable to pay taxes of an amount which can be determined only after the revival of the company.

14. In view of the foregoing circumstances, it is respectfully submitted that before grant of prayer of the petitioner by this Hon'ble Tribunal:

- A. The application may be allowed on its merits.
- B. The petitioner may kindly be directed to submit a report to the respondent furnishing the details of tax assessed and recovered from the company after the revival of the subject company.
- C. To pass such other orders as deemed fit and proper in the circumstances of the case.

The RoC in its report has not raised any substantive objections.

8. Copy of the application and notice of hearing was sent to R1, which returned "Addressee Left without instructions".

We have heard the submissions of the Appellant and the R2 / RoC, Chennai

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. 9. The Appellant has placed the Notices and Demand analysis issued under Income Tax Act, 1961 dated 28.03.2023, 30.03.2023 & 04.05.2023 respectively. It is seen that, this appeal is filed by a statutory authority to protect the interest of revenue to the Government. As per the Appellant, the R1 Company is liable to pay taxes which can only be recovered only after the revival of the Company.

10. Section 252 of the Companies Act, 2013 provides as follows: -

"Section 252: Appeal to Tribunal,

(3) *If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies."*

The above provisions, vests this Tribunal, with a discretion to restore the R1 Company whose name has been Struck Off, on satisfaction that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise, it is just to restore the name of the company to the register of companies.

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11. In the view of above provisions, facts, circumstances, evidences, this tribunal is of opinion that, this R1 Company should be restored to protect the interest of the government. Further the R2/RoC, Chennai had not made any objections to restore the company in the name of the Register of Companies. It is ordered as under;

(i) The Registrar of Companies, Chennai, the R2 herein, is ordered to restore the original status of the Company i.e. **M/S.GRAND DIAMOND PRIVATE LIMITED** as if the name of the Company has not been struck off from the Register of Companies with resultant and consequential actions like changing status of Company from "strike off" to "Active";

(ii) The Appellant is permitted to deliver a certified copy of this order with RoC, concerned within 30 days of the receipt of this order;

(iii) On such delivery and after duly complying with above directions, the Registrar of Companies, concerned is directed to, on office name and seal, publish the Order in the Official Gazette, and

(iv) This Order is confined to the violations, which ultimately lead to the impugned action of "striking off" of the Company, and it will not come in the way of RoC, concerned to take appropriate action(s) in accordance with law, other violations/offenses, if any, committed by the Respondent company R1 prior to or during the "Striking Off" period.

(v) The Appellant shall submit a report to the RoC, concerned furnishing details of the tax assessed and recovered from the Company after revival of the Company.

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12. Accordingly, *Comp. Appeal /30(CHE)/2023* is hereby allowed and disposed off.

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RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)
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JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)