

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - II, CHENNAI**

**Comp. Appeal /44(CHE)/2023**

*(Under Section 252(3) of the Companies Act, 2013)*

*In the matter of M/s. Jumbhos Joy Park Limited*

**DR. POLLACHI VISWANATHAN RAVI**

Shareholder of M/s. Jumbhos Joy Park Limited

No. 36, I Street, KPN Colony,

Tiruppur - 641 401

Tamil Nadu

*... Appellant*

**-Vs-**

**REGISTRAR OF COMPANIES, COIMBATORE**

No. 7, AGT Business Park,

1<sup>st</sup> Floor, Phase II, Avinashi Road,

Civil Aerodrome Post,

Coimbatore - 641 014

Tamil Nadu

*... Respondent*

*Order Pronounced on 03<sup>rd</sup> May 2024*

CORAM

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Appearances:

*For Petitioner : Mr. A.G. Sathyanarayana, Advocate*

*For Respondent/RoC : Mr. Avinash Krishnan Ravi, Advocate*

**ORDER**

1. This Appeal has been filed by **MR. POLLACHI VISWANATHAN RAVI** in the capacity of the Shareholder cum Director of the Appellant Company namely, **M/S. JUMBHOS JOY PARK LIMITED**, under Section 252(3) of the Companies Act, 2013 for restoration of the name of the Company in the Register maintained by the Respondent / RoC aggrieved against the order of Strike Off carried out by the Registrar of Companies, Chennai under Section 248 of the Companies Act, 2013.
2. The brief facts of the matter are tabulated below: -

S. No.	PARTICULARS	FACT
a)	Name of Company	M/s. Jumbhos Joy Park Limited
b)	CIN No.	U92199TZ1995PLC005913
c)	Date of Incorporation	10.03.1995
d)	Registered Office Address	36, I Street, KPN Colony, Tirupur - 641 601, Tamil Nadu.
e)	STK-5 Date	30..11.2021
f)	Date of Publication of STK-7	10.02.2022
g)	Reasons for Strike Off	The company has not filed its statutory annual returns, financial statements and has not been carrying on any business or operation for a period of two immediate preceding financial years and did not make any application within such period for obtaining the status of dormant company under section 455 of the Companies Act to the RoC/ Respondent.

3. It is stated that the main object of the Company is To promote, develop, construct, build, take on lease, purchase, acquire, sell, reconstruct, reorganise; supervise, administer, control, manage amusement parks, recreation centres, play grounds, auditoriums, indoor stadia, entertainment centres, clubs, restaurants, hotels, complexes, artificial water fronts, children's play clubs, gathering centres, libraries, reading rooms, green parks, retail stalls, boat clubs, swimming pools, golf clubs, polo clubs, sport centres, planetariums, museums, exhibitions, zoos, bird sanctuaries, aquariums, computer game centres, thee res, video centres, parlours and such other facilities for infrastructure developments and to run maintain, provide such other additions, deletions to the facilities and provide electronic gadgets equipments and implement for the effective

running and maintenance of the above activities etc., The detailed objects are set out in the Memorandum of Association filed along with the company appeal.

4. It is stated that, the subject company has filed the last annual returns till 31.03.2018.
5. It is submitted that the company is carrying its business for which it was incorporated till date. It is state that the Company has taken lease hold rights over 10 acres of land situated at Coimbatore. It is further stated that there has been some dispute in taking possession of the said land and to begin construction of an amusement park. It is stated that the Company was running from pillar to post as the lease hold land was encroached to an extend of 3.30 acres. It is stated that the failure of non-filing of returns are neither wanton nor wilful.
6. Upon notice, the Respondent/ RoC filed the Report on 14.02.2024, wherein it is stated as follows,

*“8. However, it is respectfully submitted that petition may be considered on merits subject to the following:*

*i) As per NCLT (Amendment) Rules 2017, Rule 87A has been inserted into the NCLT Rules 2016. As per Rule 87A (4), where the Tribunal makes an order restoring the name of the company in the register, the order shall direct that:*

*a) The appellant or applicant shall deliver a certified copy to the Registrar of Companies within thirty days from the date of the order;*

*b) On such delivery, the Registrar of Companies do, in his official name and seal, publish the order in the Official Gazette;*

*c) The appellant or applicant do pay to the Registrar of Companies his costs of, and occasioned by, the appeal or application, unless the Tribunal directs otherwise; and*

*d) The company shall file pending financial statements and annual returns with the Registrar for the financial years 2018-19 to till date with fees and additional fees as prescribed in the Companies Act, 2013 and comply with all other requirements of the Act and rules made thereunder within such time as may be directed by the Tribunal.*

*ii) Further, as per instructions of the Regional Director, the field offices have been directed to obtain an Affidavit from the directors of the company that the company which is to be restored did not involve itself in any unlawful action and was not used as means to transact tainted money during demonetization period.*

Other than the above there is no other significant objection from the Respondent /RoC.

7. We have heard the submissions of the Appellant Company and the Respondent/RoC as well. This Tribunal has made the below observations. To substantiate the plea of revival, the Appellant has placed the following documents on records.

- *Lease Deed dated 19.01.1996.*
- *Audited Balance sheet and financial statements for 6 financial years, from April 2018- March 2023.*
- *Copy of Order of Hon'ble Supreme Court dated 27.11.2014.*

8. The instant Appeal is filed seeking restoration of the name of the subject company in the register maintained by the Respondent / RoC on the ground that the company has a prospective business opportunity for which it was incorporated.

9. From the Audited balance sheets, it is observed that the subject company has been in active operations. The Lease deed shows that the subject Company intends to do its business for which it was incorporated. Moreover, considering the series of litigations that were pursued by the

company shows that they are making efforts to continue their business operation. It is also seen that there were payments made towards audit expenses , lease rental, legal charges and other operational expenses from which it is evident that the subject company was active immediately two years preceding the struck off date.

10. It is submitted that the non-compliance in respect of filing of statutory requirements as per the Companies Act, 2013 was neither wanton nor wilful. Appellant further undertakes to file the pending returns in accordance with the directions.

11. Section 252 (3) of the Companies Act, 2013 provides as follows: -

*"Section 252 (3): 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."*

12. The above provisions, vests this Tribunal, with a discretion to restore the Subject Company whose name has been Struck Off, in case the Company is able to demonstrate that there is an active business as on the date of its Struck Off or otherwise it is just to do so.

13. In *Purushottamdass and another (Bulakidas Mohta Company Private Limited V. Registrar of Companies, Maharashtra & Others.)*, Hon'ble *Bombay High Court* the observed as follows:

*"The objects of Section 560(6) of the Companies Act, is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and to give them an opportunity of carrying on the business only after the company judge is satisfied that such restoration is necessary in the interests of justice."*

14. In *M.A. Rahim & another V. Sayri Bai*, reported in *MANU/TN/O218/1973*, the *Division Bench of Hon'ble Madras High Court*, held that the word 'just' connotes reasonableness and something confirming to 'Rectitude' and 'Justice', something 'Equitable and Fair'.

15. In this case, the Appellant who is a shareholder cum Director of the struck Off Company, has submitted the Audited financial statements, lease deed, and proof of litigation to show that the subject Company was active and operating during the struck off period. Therefore, we are of the view that the subject company be given an opportunity and thus in the Interest of Equity, Fairness and Justice, the Company be restored.

16. In the view of above said facts and circumstances, this tribunal taking into consideration the records available along with the Provisions of the Act, judgements discussed above allows the instant appeal subject to the following directions, namely:

*a. The Registrar of Companies, concerned is ordered to restore the original status of the Company i.e. M/s. JUMBHOS JOY PARK*

*LIMITED as if the name of the Company has not been Struck Off from the Register of the Companies with resultant and consequential actions like changing the status of the Company from "Strike Off" to "Active".*

- b. The Company shall within a period of 30 days from the restoration of the name of the company in the register being maintained by the RoC, the appellant will file inter alia all its compliances statutorily required to be made under the Companies Act, 2013 for the period from which there has been default with requisite charges/fees as well as additional fee/late charges.*
- c. That the Restoration of the name of the company is also subject to the payment of the cost of **Rs. 50,000/- (Rupees fifty thousand only)** through online payment in [www.mca.gov.in](http://www.mca.gov.in) under miscellaneous fees by mentioning the particulars as "payment of cost for the revival of Company", as volunteered by the appellant during the hearing.*
- d. Until all the compliances are made by the Company, the Company shall not alienate or dispose of any of its valuable assets.*
- e. It is made clear that by virtue of this order of restoration of the name of the Company in the register, it will not entitle the Directors of the Company whose names in the case have been disqualified by virtue of provisions of Section 164 of the Companies Act, 2013 by the Respondent/RoC automatically to be restored to directorship except in accordance with the law.*

- f. An affidavit of compliance of the aforesaid directions shall be filed by the Appellant within a period of 2 months from the date of this order.*
- g. The shareholders of the Company shall jointly submit an Undertaking to the Registrar of Companies stating therein that the accounts of the Company were not used as means to transact tainted money during the period of demonetization.*
- h. Further, this order allowing the Appeal shall also not circumscribe the power of the respondent to proceed against the Company and its Directors as mandated for alleged late filing of any forms, documents, returns and such other compliance under the provisions of Companies Act, 2013.*

17. This Appeal **CA/44(CHE)/2023** stands *allowed* on the aforementioned terms and *disposed of*.

**-Sd-**

**RAVICHANDRAN RAMASAMY  
MEMBER (TECHNICAL)**

**-Sd-**

**JYOTI KUMAR TRIPATHI  
MEMBER (JUDICIAL)**