
(2020) 02 NCLT CK 0073

National Company Law Tribunal New Delhi Bench

Case No: Company Appeal No. 319 Of 2017

Income Tax Officer
Ward 23(3)

APPELLANT

Vs

Registrar Of
Companies And Ors

RESPONDENT

Date of Decision: Feb. 19, 2020

Acts Referred:

- Income-Tax Act, 1961 - Section 139
- Companies Act, 2013 - Section 248(1), 252(1), 252(3)

Citation: (2020) 02 NCLT CK 0073

Hon'ble Judges: Ina Malhotra, J; L.N. Gupta, Member (Technical)

Bench: Division Bench

Advocate: Zoheb Hossain, Priti Verma, Yadhubhushana Rao

Final Decision: Disposed Of

Judgement

L.N. Gupta, Member (T)

1. The present Appeal is preferred by the Income Tax Officer, Ward 23(3), against the striking off of the name of M/s. Shrisai Edutech Pvt. Ltd.

("the Company"), from the Register of Companies.

2. It is stated by the Appellant that the Company is a Private Limited Company incorporated under the erstwhile Companies Act, 1956 on 08.04.2009

with CIN No. U80903DL2009PT189209. The Authorised Share Capital of the company is Rs. 1,00,000 and the paid-up capital of the company is Rs.

1,00,000. The registered Office of the Company is at 1/7, 2ND Floor, Sunder Vihar Outer Ring Road, Paschim Vihar, New Delhi-110087. Therefore,

the jurisdiction lies with this Bench of the Tribunal.

3. The Appellant in its petition has averred that :

5. The information regarding financial activities by the Assessee Company has been obtained from ITD system through the I-Taxnet wherein it has

been found that during the relevant assessment year 2010-11 the Assessee has entered into 2 cash transactions totalling Rs. 20,00,000 which has not

been declared by the assessee by filing of return of income for the A.Y. 2010-11.

4. It is further submitted by the Appellant that the Company had not filed its Income Tax Return for the Assessment Year 2010-11. It is stated by the

Appellant that the Respondent Company has violated Section 139 of the I.T. Act by not filing its I.T. return for the Assessment Year 2010-11.

5. It is stated by the Appellant that it had issued a notice dated 31.03.2017 to the Respondent Company. It is further submitted by the Appellant that

the said notice remained un-served.

6. The Appellant has submitted that on perusal of the Master Data available on the MCA website, they had come to know that the said Respondent

Company has been ""struck off by ROC.

7. The Appellant contends that in order to have a valid assessment order for recovery of the taxes from the Respondent Company and for any further

consequential proceedings against the company under the I.T. Act, there is a need of restoration of the Company, namely, M/s. Shrisai Edutech Pvt.

Ltd. in the Register of Companies.

8. As none appeared on behalf of the Respondent No. 2 to 4, they were proceeded ex-parte vide Order dated 17.02.2020 passed by this Bench.

9. That the Respondent No. 1 i.e., RoC submitted during the final hearing that they do not have any objection if the name of the Respondent Company

is restored in the Register of RoC.

10. The Income Tax Department is an aggrieved party within the meaning of Section 252(1) read with 252(3) as it has to recover taxes and duties

payable by Respondent Company and great prejudice will be caused to its revenues, if the name of the Company is not restored back. Accordingly, in

sequel to the above, it being just and equitable to allow restoration of the name of the company, the Appeal is allowed. The Registrar of Companies, is

directed to restore the name of M/s. Shrisai Edutech Pvt. Ltd. in its Register, as if the name of the Company had not been struck off in accordance

with Section 248(1) of the Companies Act, 2013. ROC is also directed to take any other penal action against the Respondents for default if any, in

accordance with the Statutory provisions.

11. The appeal is disposed off accordingly.

12. Let the copy of Order be supplied to parties.