

(2022) 05 NCLT CK 0039

National Company Law Tribunal, Kolkata Bench

Case No: Appeal No. 50/KB/2022

Registrar Of Companies

APPELLANT

Vs

M/s Abhishek Pharmaceuticals
Private Limited

RESPONDENT

Date of Decision: May 19, 2022

Acts Referred:

- Companies Act, 2013 - Section 252(1), 433
- Companies (Removal of name of companies) Rules, 2016 - Rule 3(1)(ix)

Hon'ble Judges: Rohit Kapoor, Member (J); Harish Chander Suri, Member (T)

Bench: Division Bench

Advocate: Sourav Kumar

Final Decision: Disposed Of

Judgement

Harish Chander Suri, Member (Technical)

1) This appeal has been filed by Registrar of Companies, Bihar, under Section 252(1) of the Companies Act, 2013 praying that an order be passed for

restoring the name of the respondent company namely M/s. ABHISHEK PHARMACEUTICALS PRIVATE LIMITED in the register of companies

maintained by the Registrar of Companies, Bihar, Patna.

2) It is submitted that Rule 3(1)(ix) of the Companies (Removal of name of companies) Rules, 2016 provides that companies having charges which are pending for satisfaction cannot be struck off by the Registrar.

3) It is submitted that the name of the respondent company herein was inadvertently struck off from the register of companies by the office of the

applicant/petitioner, while they were having open charges pending for satisfaction; due to the fact that though there were charges, but the list could not be verified with the system segregating the name of the respondent company, while generating the data w.r.t. companies, which have failed to file their Financial Statements/Annual Returns for the last two years, during the last three drives of striking off of the names of non-functional companies, as per the directions of Ministry of Corporate Affairs (hereinafter referred to as "MCA") received from time to time.

4) It is submitted that the name of the respondent company herein was inadvertently struck off from the register of companies by the office of the appellant due to voluminous task and due to mechanical process being followed in generation of list of companies from MCA-21 portal and lack of manual verification and internal check thereof.

5) It is submitted that on analysing of list taken from MCA-21 records centrally on pan India basis, found that there are various companies which have been struck off but still having open charges as per back office master data, during the last three drives. In this regard, Ministry has directed vide letter dated 10.12.2021 to the appellant/ petitioner to file an application before this Tribunal seeking restoration of the name of the respondent company.

6) It is submitted that the last three drives for striking off of the name of companies, the office of appellant has struck off the names of more than 10,000 companies and in this, due to voluminous task, the name of respondent company was also struck off inadvertently, due to the mechanical process being followed in generation of list of companies from MCA-21 portal and lack of manual verification and internal check thereof.

7) It is stated that Ministry on analysis of the list taken from MCA-21 records centrally on pan India basis, found that there are various companies which have been struck off but still having open charges as per back office master data, during the last three drives. In this regard, Ministry has directed vide letter dated 10.12.2021 to the applicant/petitioner to file an application before the Tribunal seeking restoration of the name of the respondent company.

8) Accordingly, the applicant/ petitioner herein presents this application under second proviso to section 252(1) of the Companies Act, 2013 seeking

restoration of the name of the respondent company in the register of companies.

9) In view of the aforesaid pleadings in the petition and the submissions made in the Court on behalf of the appellant, we direct the restoration of the

name of the Company in the register of companies maintained by Registrar of Companies, Bihar along with other consequential orders, so as to give

effect to the respondent company and its officers and the Stakeholders, the same status as if the company had never been struck off.

10) The appellant has further declared that the present appeal is well within the period of limitation prescribed under second proviso to section 252(1)

read with section 433 of the Companies Act, 2013 and the orders passed by the Honâ€™ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of

2020.

11) Appealâ€™ No. 50/KB/2022 is disposed of accordingly.

12) The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

13) Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.