
(2023) 06 NCLT CK 0034

National Company Law Tribunal, Jaipur Bench

Case No: Appeal No. 24/252/JPR/2022

Sudhir Jaju

APPELLANT

Vs

Registrar Of
Companies

RESPONDENT

Date of Decision: June 1, 2023

Acts Referred:

- Companies Act, 2013 - Section 248, 252(3)

Hon'ble Judges: Deep Chandra Joshi, Member(J); Atul Chaturvedi, Member (T)

Bench: Division Bench

Advocate: Jeetam Kumar Saini, Pooja Singh

Final Decision: Disposed Of

Judgement

Atul Chaturvedi, Technical Member

1. This Appeal has been filed in the matter of M/s Real Square Builders and Colonisers Private Limited (â€™Companyâ€™™), through its member

Sudhir Jaju (â€™Appellantâ€™™) under Section 252(3) of the Companies Act, 2013 read with Companies (Removal Of Name Of Companies From The

Register Of Companies) Rules, 2016 and other applicable provisions thereof, praying for the restoration of the Companyâ€™™s name in the Register of

Companies maintained by RoC, Jaipur (â€™RoCâ€™™) and restoration of the Director Identification Number (DIN) of all Directors of the Company for

e-filing balance sheet and annual return and other e-forms.

2. It is stated that the RoC struck off the name of the Company from the Register of Companies due to default in statutory compliance, namely, failure

to file Annual Return and Financial Statement since 31.03.2018. The name of the Company is stated in Form STK-7 dated 24.03.2022, a copy of which is attached as Annexure - 2 of the Appeal.

3. The main object of the Company is to deal in immovable properties such as land and buildings on instalments or otherwise and to purchase, acquire, take on lease or in exchange or in any other lawful manner in India or abroad any area, land including agriculture land, building, structures, industrial land, factories, hotels, motels, resorts, farm houses, cinema houses and other commercial properties, estates, real estates or interest therein and any rights over or connected with them and to develop the same for sale on instalments or otherwise, for any other purpose by preparing building sites and by constructing, reconstructing, altering, improving, decorating, furnishing and maintaining commercial and residential buildings, bungalows, hotels, colonization, multi storey offices, flats, houses, shops, showrooms and townships and to equip them or any part thereof with all or any amenities or conveniences thereon and by consolidating or connecting or subdividing properties and leasing or disposing of the same and to manage such lands and buildings.

4. It is submitted that the Company has been active since incorporation and has also been maintaining all required documentation as per the provisions of the Companies Act, 1956. However, the reporting of such activities through the filing of Annual Returns and Balance Sheet with the RoC has not been done due to lack of knowledge and ignorance of the provisions by the company.

5. The Appellant has filed a copy of the Financial Statements of the company for the financial year 2017-18 in support of its stand that the company was in operation and pursuing activities during the period of striking off the name of the company, annexed as Annexure 3 of the Appeal. The Balance Sheet as on 31.03.2018 and 31.03.2017 reflects cash and cash equivalents of Rs. 41,808.37/- and Rs. 66,208.37/- respectively. Similarly, the Profit and Loss account for the year ending on 31.03.2018 and 31.03.2017 shows a loss of Rs. 30,830.71/- and profit of Rs. 7,289.71/- respectively.

6. The RoC has filed a report vide Diary Number 667/2023 dated 16.03.2023 stating that the Company has failed to file statutory returns since

31.03.2018 and have subsequently prayed for directions upon the Appellant to make up to date filing of statutory documents.

7. The Income Tax Department had earlier requested time to file reply but no reply has been received till date. Therefore, in absence of any response

by the Income Tax Department, it is assumed that there is no objection raised by the Department for the revival of the Company in the Registrar of

Companies.

8. Upon considering the facts and circumstances and the pleadings of the present Appeal, this Bench is of the view that it is a fit case for the

restoration of the name of the company.

9. Accordingly, this Appeal is allowed and the restoration of the Appellant Company's name, i.e. M/s Real Square Builders and Colonisers Private

Limited, in the Register of Companies maintained by the RoC, is hereby ordered subject to prior submission to the RoC of physical copies of financial

statements for the intervening period, from the financial year 31.03.2018 to till date, for the satisfaction of the RoC in respect of the format and

requisite content of the said financial statements besides complying with the provisions of the Act. Further, this order will be subject to payment of

costs of (1) ₹15,000/- to be paid in favour of 'The Prime Minister's National Relief Fund', (2) ₹15,000/- to be paid in the Online

Miscellaneous fee account of Ministry of Corporate Affairs within three weeks from the receipt of the duly certified copy of this order. In the event

of any liabilities being determined in respect of the Company by any authorities, including the Income Tax Department, they may proceed in this

regard, in accordance with applicable law.

10. This Appeal is disposed of on the terms directed above. The RoC shall give effect to this order after ensuring compliance of tendering of cost. The

company is directed to file all the required documents and shall fulfil all other relevant statutory compliances, in accordance with law within 30 days

from the restoration of its name in the Register of Companies maintained by the RoC. Consequent to the restoration of the name of the Company, it

shall be deemed to be operational in all respects, as if the name of the company had not been struck off under Section 248 of the Companies Act,

2013. The RoC is directed to mark the DIN of the directors of the Company as "Active", provided the default by the said directors is limited to

the Company under consideration herein, in consonance with the ratio decidendi of the order dated 07.10.2017 of the High Court of Telangana and

Andhra Pradesh in the case of Dr. Reddy's Research Foundation Vs. Ministry of Corporate Affairs (Writ Petition 32575 of 2017) and also

directions passed by Hon'ble High Court of Judicature for Rajasthan, Jaipur in an order dated 26.04.2018 in the case of Niranjana Kumar And Anr

Vs. Union Of India And Anr (S.B. Civil Writs No. 8899/2018).

11. Certified copies of this order be communicated by the Registry to the Appellant and the Registrar of Companies, Jaipur.