

Narang Spaces Private Limited Vs Registrar of Companies, NCT of Delhi and Haryana

Court: National Company Law Tribunal, Chandigarh Bench

Date of Decision: March 14, 2024

Acts Referred: Companies Act, 2013 â€” Section 248(1)(c), 248(5), 252(3), 455

National Company Law Tribunal Rules, 2016 â€” Rule 87A

Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 â€” Rule 9

Hon'ble Judges: Dr. P.S.N Prasad, Member (J); Umesh Kumar Shukla, Member (T)

Bench: Division Bench

Advocate: Manish K. Singh, Gauri Neo Nagpal

Final Decision: Dismissed

Judgement

S.N.,Shareholder's Name,No.of Shares held,% of Shares

1,Balvinder Singh Narang,"8,000",20%

2,Mandeep Singh Narang,"16,000",40%

3,Manpreet Narang,"16,000",40%

,Total,"40,000",100%

9. We have heard the submissions of the Ld. Counsel of the appellant, Ld. Senior Standing counsel for the Income Tax Department and the Ld.".,,

ARoC, and also perused the paper book of the case file.".,,

10. As per provisions of sub-section 3 of Section 252 of the Companies Act, 2013, a company, or any member or creditor or workman thereof".,,

feeling aggrieved by the company having its name struck off from the register of companies may file an appeal for restoration of name of,,,

the company before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248.,,,

11. As per the Annexure IV of the RoC report, the date of publication in the Official Gazette of the notice under sub-section (5) of section 248 is".,,

30.06.2017. The appeal for restoration of name under section 252(3) can be filed within 20 years from 30.06.2017. As the appeal has been filed vide,,,

diary no 01480 dated 23.02.2023. The appeal is within the period of limitation.,,,

12. It is noted that the application has been filed by Mr. Balvinder Singh Narang, Director/ shareholder of company based on the Board Resolution".,,,

passed at the Meeting of Board Directors held on 01.11.2021 authorising him to file the petition. The Board Resolution has no significance, as the",,,

name of the company has been stricken off.,,,

13. It is noted from the RoC report that the name of the company was struck off as per the provisions of section 248(1)(c) of the Companies Act, ",,,

2013, which provides for initiate action for striking off the name of a company, if it is not carrying on any business or operation for a period of two",,,

immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under,,,

section 455. The RoC in its report has submitted that appellant may be directed to show that at the time of striking off, the appellant company was",,,

carrying on business or was in operation. As the notice in the form of STK-1 was issued in the month of March, 2017, public notice for the same in",,,

the form of STK-5 was issued on 27/28.04.2017, and the date of publication in the Official Gazette of the notice under sub-section (5) of section 248 is",,,

30.06.2017, the documents submitted by the appellant have been examined to understand, whether the company was carrying on the business during",,,

the period March-June, 2017. ",,,

14. It is also noted that the appellant has neither submitted any document to support that it was carrying on business at the time of striking off its name,,,

by RoC nor has furnished the same in spite of specific direction in that regard. It is also noted that company was incorporated in 2011 and has not filed,,,

the balance sheets, annual returns and income tax returns since its inception. Therefore, Appellant Company has failed to bring the relevant",,,

information on record, which could depict that the Appellant Company was carrying on business or was in operation at the time, when its name was",,,

struck off from the register of RoC.,,,

15. The provisions of sub-section 3 of Section 252 of the Companies Act, 2013, provides that the Tribunal, 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.",,,

16. In the present case, it is worthwhile to refer to the Judgement of Hon'ble NCLAT in the matter of Alliance Commodities Private Limited",,,

Company Appeal (AT) No. 20 of 2019, which has been reproduced below:",,,

"Section 252 (3) of the Companies Act, 2013 empowers the Tribunal to order restoration of a Company whose name has been struck off from the Register of",,,

Companies, if such company, any member or creditor or workman thereof feeling aggrieved by such striking off applies before the Tribunal seeking restoration of",,,

the struck off company to the Register of Companies before the expiry of twenty years from the publication in Official Gazette of notice under Section 248(5). The,,,

exercise of such power is properly regulated and depends upon satisfaction of the Tribunal that the Company at the time of its name being struck off was carrying,,,

on business or in operation or otherwise it is just that the name of company be restored.Ãçâ,~â€€,,,

17. After careful examination of the facts and circumstances of this case, we are of considered view that neither the company has been able to",,,

establish that it was carrying on business or in operation nor otherwise it is just that the name of the company be restored.,,,

18. In view of the above, the Appellant has failed to establish a case for restoration of the name of the company. The Appeal stands dismissed without",,,

costs.,,,

19. Let the copy of the Order be made available to the Parties.,,,