
(2024) 03 NCLT CK 0045

National Company Law Tribunal, Mumbai Bench Court V

Case No: Company Appeal No. 84/MB/2023

Swapnali Logistics Pvt. Ltd

APPELLANT

Vs

Registrar of Companies, Mumbai

RESPONDENT

Date of Decision: March 14, 2024

Acts Referred:

- Companies Act, 2013 - Section 10A, 248, 252(1)

Hon'ble Judges: Reeta Kohli, Member (J); Madhu Sinha, Member (T)

Bench: Division Bench

Advocate: CS PS Thakre & Company

Final Decision: Disposed Of

Judgement

1. The present Petition has been filed under Section 252(1) of the Companies Act, 2013 (hereinafter as to Act) by Swapnali Logistics Private

Limited, seeking restoration of the name of the company in the Register of Companies maintained by the Registrar of Companies, Mumbai.

2. The name of the Company was struck off from the Register of companies on account of the reason that the Company had defaulted in filing Form

INC 20 A within 180 days from the incorporation of the company pursuant to section 10 A of the Companies Act 2013. The ROC published a public

notice for striking off the name of the company by issuing STK-5 dated 01.10.2022.

Submissions by the Petitioner:

3. It is submitted by the petitioner that the company was incorporated on 11.01.2019 under the Companies Act, 2013. The name of the Company was

struck off from the Register of Companies because the Company had defaulted filing Form INC 20A within 180 days from the incorporation of the

company pursuant to section 10A of the Companies Act 2013.

4. It is submitted that the company was incorporated recently and the management of the company was working on the business set up of the

company and the was taking time to streamline the operations. Further the company has duly taken actions for receiving the subscription money from

the subscribers and also the company has its registered office which are the important components of said FORM INC 20A to be filed with ROC

MUMBAI within 180 days as per section 10A of the ACT.

5. The company is ready to file this FORM INC 20A immediately on restoration of the company by NCLT ORDER and comply with all the due

filings in the matter with ROC MUMBAI.

Submissions by the Respondent/ROC:

6. The Respondent/ ROC has filed a detailed report with this Tribunal explaining the sequence of events leading to the striking off of the company. It

is stated that the petitioner failed in filing the Form INC 20A from the commencement of business for a period of more than a year. The Respondent

issued notice in forms STK-1 to the Company and its directors informing the intention of the Registrar to strike off the name of the company.

7. The Respondent has further submitted that a public notice vide STK-5 dated 01.10.2022 was published on the website maintained by the Ministry

and published in Official Gazette on 23.09.2022 and in leading English Newspaper (Times of India) and a vernacular language newspaper

(Maharashtra Times-Marathi) seeking objections against the proposed striking off of the name of company.

8. The Respondent has further submitted that in absence of any representation against the proposed strike off action, the Registrar struck off the

name of the company on 17.11.2022 and the dissolution order was published on the website of the Ministry vide STK 7 on 17.12.2022.

Findings:

9. The facts and circumstances of the case show that the Company is willing to file the relevant documents relating to INC 20A which are required to

be filed, if so permitted.

10. The Petitioner has enclosed the Audited Annual Accounts for the years 2019-2020, 2020-2021 and 2021-2022 with the Petition to demonstrate that the Company is in continuous operation.

11. Upon considering the facts and circumstances of the present Appeal, this Bench observed that the appeal has been filed after a period of 2 years

by the Directors of the company Swapnali Logistics Pvt. Ltd. in the Tribunal as per the provision 252(1) of the Companies Act 2013. Considering that

the company is in continuous operation and ready to make good the non-compliance. This bench is of the view that it would be just and proper to order

restoration of the name of the Company in the Register of Companies maintained by the ROC.

ORDER

12. Accordingly, this Appeal is allowed. The restoration of the Company's name to the Register of Companies maintained by the ROC is hereby

ordered, subject to payment of costs of Rs.25,000/- per Financial year for non-compliance, i.e. from the year 2020-21 and 2021-22 i.e. 2

years, total amounting to Rs. 50,000/-, in the account of "Bharatkosh". The company shall undertake to abide by the provision of Companies

Act 2013. Consequentially thereupon the Bank Account(s), if freezed, shall get defreezed and can be operated by the Company.

13. The Registrar of Companies, Mumbai is directed to give effect of this Order only after perusal of the Compliance report in respect of the costs

imposed. The Company is directed to file all the required documents and fulfil other relevant statutory compliances within 30 days from restoration of

its name in the Register of Companies maintained by the ROC.

14. Copy of this order to be sent to the ROC Mumbai for necessary compliance.