

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

C.P. No.21/252(1)/GB/2018

Under Section 252(1) of the Companies Act, 2013

In the matter of:

Hometown Projects & Construction Pvt. Ltd.

... Petitioner

-versus-

Registrar of Companies, NE Region, Shillong

... Respondent

Order delivered on 26th July, 2018

Coram:

HON'BLE MR. JUSTICE P.K. SAIKIA, MEMBER (JUDICIAL)

For the petitioner : Mr. Diraj Kumar Jain, CA

For the Respondent : Mr. Khanindra Kr. Goswami, Advocate
(ROC – NE, Shillong)

ORDER

This application under Section 252(1) of the Companies Act, 2013 has been filed by the petitioner company, namely Hometown Projects & Construction Pvt. Ltd. seeking restoration of its name in the register alleging that the petitioner company was struck from the register of companies maintained in the office of the Registrar of Companies, Shillong not in accordance with the prescription of law and as such the petitioner company is aggrieved by the conduct of the respondent ROC, Shillong in striking off its name.

2. It has further been submitted that the company was engaged in the business of construction of building and real estate in Agartala in the State of Tripura and it has been conducting its business profitably. But since its name has been struck off from the register of companies maintained by the ROC, Shillong, the petitioner company is not able to carry out its business.

3. It has also been submitted that since the petitioner company was not in a position to file annual returns, balance sheets and balance sheets etc. for the period from 2014 to 2016, its name was struck off by the ROC, Shillong. But in doing so, the prescription of law as rendered under Section 240(1) of the Act of 2013 was not followed. All these facts have been incorporated in the petition. The relevant part of the petition is reproduced below: -

"d) *The petitioner state that in fact, the petitioner company was duty bound to file the annual return and balance sheet time to time. The petitioner company has failed to file its statutory reports since the year 2014. The true affairs of the company is reflected in its Balance Sheet*

and that had been prepared and duly audited by the Chartered Accountant up to 31st March 2018.

- e) The petitioner company had an honest belief that the company would be in a position to start the said business and would be in a position to place before the statutory returns in time before authorities including the Registrar of Companies in time. (The copies of the balance sheet are annexed as Annexure-II Series).
- f) That there was due to unavoidable incidents and other medical issues the requisite documents was not filed before the Registrar of Companies.
- g) That the petitioner company had reasonable believe that the concerned respondents herein would allow the said company to file the return on receipt of late fee in addition to the fee for filing of returns, on payment of requisite fee as well as additional fee, the filing of requisite document could not be rectified, on such rectification, there is no violation of any provision of the Act under the Companies Act.
- h) That on noticing that the statutory returns has not been filed in time, your applicant took immediate steps for filing of statutory returns before the Registrar of companies accordingly the consultant had prepared all requisite documents for filing of return before the Registrar of Companies. The requisite returns could not be filed due, The Registrar of Companies might have on noticing the non filing of statutory returns by the petitioner company legally bound on payment of late fee, as stipulated in Companies Act. Thereafter, the action has been taken for struck down of the name of the company from the Register of the companies, due to shortcoming for filing of statutory returns."

4. In this connection, I have also heard Mr. D. K. Jain, learned legal representative of the petitioner. Mr. Khanindra Kr. Goswami, learned counsel representing the ROC, Shillong submits that he needs some time to receive respond in this regard.

5. The petitioner is directed to serve a copy of the petition once again through the learned counsel appearing for the ROC, Shillong.

6. The Registry is directed to list the matter on 27th August, 2018.

Sd/-

Member (Judicial)
National Company Law Tribunal
Guwahati Bench: Guwahati.

Dated, Guwahati the 26th July, 2018
DeKa/26-07-2018

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