

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III
NEW DELHI

Appeal no.- 319/252/ND/18

CORAM: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

DR. V.K.SUBBURAJ, MEMBER (TECHNICAL)

IN THE MATTER OF SECTION 252 OF THE COMPANIES ACT, 2013.

IN THE MATTER OF:

JAIPURIA MALL PRIVATE LIMITED

(APPELLANT)

VERSUS

THE REGISTRAR OF COMPANIES, DELHI AND HARYANA

(RESPONDENT)



MEMO OF PARTIES:

1. JAIPURIA MALL PRIVATE LIMITED

CIN: U55101DL2011PTC2016746

A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
16, 2ND FLOOR SHANKAR VIHAR
DELHI - 110092

..APPELLANT

VERSUS

2. THE REGISTRAR OF COMPANIES, DELHI & HARYANA

OFFICE UNDER THE MINISTRY OF CORPORATE AFFAIRS
HAVING ITS OFFICE AT
4TH FLOOR, IFCI TOWER,
61, NEHRU PLACE,
NEW DELHI-110019

...RESPONDENTS

**For the Appellant : Mr. Prince Mohan Sinha (Company
Secretary) & Mr. Dinesh Mohan (Advocate)**

**For the Respondent: Ms. Kusum Yadav (Company Prosecutor,
RoC)**



ORDER

Delivered on: 17.09.2018

1. This is an appeal which has been preferred u/s 252 of the Companies Act, 2013 ("the Act") by the Appellant Company in relation to an order of striking off the name of the Appellant Company passed by the Respondent with effect from 07.06.2017 under the provisions of Section 248 of the Companies Act, 2013. Ld. Counsel for the Appellant represents that the Appellant Company was incorporated under the provisions of Companies Act, 1956 and has its registered office at 16, 2nd Floor Shankar Vihar, Delhi-110092. It is further submitted by the Appellant Company that on 30.06.2017 in the notice published in the official gazette by the Registrar of Companies ("RoC") the name of the Appellant Company was struck off and the Appellant Company was dissolved with effect from 07.06.2017. The Company is into the business inter-alia to develop own and operate throughout India a chain of fast food, fine dining family restaurants, express, delivery or carry away featuring pizza, burger, sandwiches, fried chicken, muglai, north Indian & other beverages items, etc. According to the Ld. Counsel the Company admits its fault for non-filing of the financial statements and annual returns of the Appellant Company and states that due to concealment of the fact by the entrusted person regarding the status of the filings, the entire non-



compliance was beyond the knowledge of the Appellant Company, it also states that such act was neither intentional nor deliberate.

2. Upon notice to the Respondent RoC, RoC has filed its reply to the above said Appeal. In paragraph 3 and 4 of the reply, the following has been submitted:

"3. That the company had filed its last Annual Return and Balance Sheet for the financial year ended on 31.03.2012 and 31.03.2012 respectively.

4. That the subject company was strike off in terms of provision of section 248(1) of the Companies Act, 2013 read with Rule 7 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016."

3. In relation to income tax upon notice directed to be issued, several opportunities were given to the Income tax department yet it has not filed its observations. Vide order dated 07.08.2018 by the Registrar, NCLT, New Delhi, the right to file the reply to the Appeal is closed for the Income Tax.



4. We have considered the plea of the Company on one hand and the Respondent on the other hand. Appellant is seeking restoration of its name in the register as maintained by RoC relying on the ground that the Appellant as of date has been carrying on operations for which it was incorporated and in the circumstances it is the averment of the Appellant that it is just that the name of the Company should be restored on the register of companies as maintained by the Respondent. In order to sustain the said plea, the Appellant has placed the following evidences before us:

- i. Bank Statements of the Company pertaining to Vijaya Bank from 01.04.2016 to 31.03.2017
- ii. Copy of Income Tax return for A.Y. 2016-17 and 2017-18 indicating neither income, loss nor any TDS been deducted.
- iii. Copy of form 26 AS for the Assessment Year 2013-14 to 2017-18 showing no tax deducted for all the Assessment Years.
- iv. Copy of Balance Sheets as on 31.03.2013 to 31.03.2017 indicating no revenue generated for the said periods.

5. We have perused the documents filed by the Company. It is apparent from the financial statements filed by the Company that there was no revenue generation in the Company for the years ended 31.03.2013 to 31.03.2017. Further, the bank account statements do not show any transactions which would demonstrate that the business

operations are ongoing. None of these documents show that the Company was actually carrying on the business for which it was incorporated. In fact, the lack of any revenue generation and any transactions relating to the business of the Company point towards the fact that there were no operations ongoing in the company. The financial statements filed by the Appellant also do not reflect any holding of any immovable properties. Whereas the Applicant has also filed the agreement of sale of a landed property which expired on 16.08.2012 obviously indicating that the appellant has not got the landed property registered in his name. In the object clause of the Memorandum of Association the main business of the appellant is indicated as Hotel chain whereas the appellant has shown as doing textile business in one place and real estate in another place.

6. Further, with regard to issuance of notice under Section 248 of the Act, it is seen from the pleadings of the Company that the notice under Section 248 dated March 2017 was received by the Company .The Company has also annexed a copy of the notice received by the Company. Thus, the Company's contention that no notice from the RoC was received by the Company stands negated by the Company's own admission.
7. After hearing the Counsel for the Appellant Company and perusal of the material on record the report of the Registrar of Companies, Delhi



and ongoing through the provisions of section 252(3) of the Companies Act, 2013, this tribunal is of the view that the appellant company was a non-functional company at the time of strike off its name even though it is presently represented that the company wants to be revived since the company is in the process to start the business operations again.

8. In view of the fact that the Company has been unable to show that it was carrying on business or operations in the two immediately preceding financial years the action of the respondent RoC is not without basis and justified and the appeal filed by the Company stands dismissed, without any order as to cost.

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17/9/18
(DR. V. K. SUBBURAJ)
MEMBER (TECHNICAL)

U.D.MEHTA/K

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(R.VARADHARAJAN)
MEMBER (JUDICIAL)