

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

Appeal No.821/252/ND/2018

IN THE MATTER OF:

INCOME TAX OFFICER WARD.

...Petitioner

VERSUS

THE REGISTRAR OF COMPANIES

...Respondent

AND IN THE MATTER OF

M/S. Libra India Pvt Ltd

Order Delivered on: 26.09.2018

CORAM:

MS. INA MALHOTRA, MEMBER(JUDICIAL)

MS. DEEPA KRISHNA, MEMBER (TECHNICAL)

PRESENT- Ms. Lakshmi Gurung for the Appellant

Ms. Kusum Yadav Company Prosecutor for the RoC

ORDER

Per Ms. Ina Malhotra (Member Judicial)

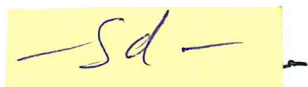
1. This petition has been filed by Income Tax Authority invoking the provisions of Section 252 of the Companies Act, 2013 for restoration

Pvt Ltd, in the Register of Companies maintained by the RoC, respondent no.1.


2. Service was duly effected on the respondents. Other than the RoC, none appeared on behalf of the other respondent to oppose the prayer made by the petitioner. While respondent no. 2 to 4 were proceeded ex-parte, respondent no.1, the RoC submits that they have no objections to the prayer of the applicant being granted by this bench.
3. Vide Proceedings initiated by the Ministry of Corporate Affairs, through the office of the RoC several names of companies were struck off for want of Statutory filings. Respondent no.2 company, which had also not filed any Returns or Financial Statements was duly struck off from the Register of Companies.
4. Invoking the provision of section 252 of the Act, the Income Tax Dept. prays for its restoration in order to carry out proceedings initiated against them. As per averments, on the basis of the AIR information received by the dept, the respondent company had transacted business during Financial Year 2010-11. TDS of Rs. 2,63,040/- on rental income was deposited but no return of income had been filed by the company.



5. Ld. Standing Counsel for the IT dept. submits that it appears that there is tax evasion which has escaped assessment within the meaning of Section 147 & 148 of the Income Tax Act. Action in accordance with law is required to be initiated against the company. It is submitted that assessment of income of the Respondent Company for the Annual Year 2011-12 is pending and shall get barred by time on 31.12.2018. Notice dated 23.03.2018 u/s 148 of the Income Tax Act, 1961 was issued to the respondent at its registered address/ email id as well as vide affixation to which there has been no response.
6. Ld. Counsel for the Income Tax Submits that the aforesaid facts necessitate restoration of the name of the Respondent Company in the Register of Companies to proceed further in accordance with law. Since the grounds made out by the applicant which remain unrebutted, their prayer merits consideration.
7. The petition is therefore allowed. The RoC is therefore directed to restore the name of the Respondent Company in their Register and also proceed to take such other and further penal action against the respondents in accordance with the statutory provisions.


Deepa Krishan

Member (T)


Ina Malhotara

Member (J)