

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. No.1492/KB/2020

In the matter of:

Sections 252 (3) of the Companies Act, 2013 Act;

And

In the matter of:

Phalak Exim Ltd., A company incorporated under the Companies Act, 1956 and having its registered office at 215, Old China Bazar Street, 4th Floor, Room No. 17, Kolkata-700001

.... Struck Off

And

In the matter of:

Mr. Nand Kishor Vyas,S/o Girdhari Lal Vyas, resident of 49/2B, Beadon Row, Kolkata-700005.

... Petitioner

-Versus-

The Registrar of Companies, (ROC Kolkata) West Bengal, having its office at Nizam Palace, 2nd MSO Building, 2nd Floor, 234/4, A.J.C.B. Road, Kolkata – 700 020.

..... Respondent

Date of Hearing : 02/07/2021

Order Pronounced on : 13/07/2021

Coram:

Mr. Rajasekhar V.K., Hon'ble Member (Judicial)

Mr. Harish Chander Suri, Hon'ble Member (Technical)

Counsel appeared through Video Conference

1. Mr. Arani Guha, Advocate] For Petitioner
2. Ms. Madhuri Pandey, PCS

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This petition has been filed by one of the Directors of Phalak Exim Ltd., (struck off of Company) u/s. 252(3) of the Companies Act, 2013 for restoration of name of the struck off company in the register of companies, maintained in the office of the Registrar of Companies, West Bengal. It is stated that the name of the Company was struck off on **26.02.2020**.
2. It is contended by the Struck Off Company that it had not filed the Financial Statements and Annual Returns for the financial years ended **2016-2017, 2017-2018, 2018-2019, 2019-2020** due to the lack of knowledge and unintentional, the company has not filed its financial statements and annual returns and has produced copies of the said financial statements. It is further contended that the Company is carrying on the business and is in operation and the same would appear from the Balance sheet of the Company and also income Tax Returns were filed on a regular basis and it will be unfair to the Company if the company is struck-off. Upon the said contentions, the Ld. Counsel for the petitioner prayed for passing of an order for restoration of the name of the Struck Off company.

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3. Notice was issued to the Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal has submitted its report to the Registry. It was stated in the report that only after compliance of the requirements to be met under Section 248 of the Companies Act, 2013, Registrar of Companies, West Bengal has struck off the name of the company from the register.
4. ROC, West Bengal has not objected to this application for restoration of the name of the company. On perusal of the application, we are satisfied that the name of the company should be restored to the register. Therefore, this petition deserves sympathetic consideration. Accordingly, the present petition is allowed on the following terms:-
- (a) The Registrar of Companies, West Bengal, the respondent herein, is directed to restore the original status of the Company as if the name of the Company had not been struck off from the register of Companies with the resultant and consequential actions like changing status of petitioner Company from '**struck off**' to '**Active**'.
- (b) The Company is directed to file all pending statutory document(s) including Annual Accounts and Annual returns for the **2016-2017, 2017-2018, 2018-2019, 2019-2020** along with prescribed fees/ additional fee/fine as decided by Registrar of Companies, West Bengal within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, West Bengal;
- (c) The restoration of the Company's name is also subject to the payment of cost of Rs.**40,000/- (Rupees Forty Thousand Only)** through online payment in www.mca.gov. in under miscellaneous fee by

mentioning particulars as **“Payment of cost for restoration of company pursuant to orders of NCLT in C.P. No. 1492/KB/2020.”**

(d) The Struck of Company is directed to deliver a certified copy of this order with Registrar of Companies, West Bengal within thirty days of the receipt of this order;

(e) On such delivery and after due compliance with the above directions, the Registrar of Companies, West Bengal is directed to publish the order in the Official Gazette under his office name and seal;

(f) This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of Registrar of Companies, West Bengal to take appropriate action(s) in accordance with law, for any other violations / offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off.

5. **C.P. No. 1492/KB/2020** is disposed of accordingly.

6. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

7. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rajasekhar V.K.)
Member (Judicial)

Order Signed on, this 13th day of July, 2021.

PJ