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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CA/1431/2019

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

Along with

MA/242/2020

(Under Rule 11 & 87A of NCLT Rules, 2016)

Along with

Comp. Appl/23/2021

(Under Rule 11 & 87A of NCLT Rules, 2016)

In the matter of **M/s. Exceed Technologies Private Limited**

Income Tax Officer,

Corporate Ward 2(1),
5th Floor, Wanaparthy Block, Room No.515,
121, M.G.Road, Chennai – 600 034.

... Applicant

-Vs-

1. The Registrar of Companies,

Block No.6, B-Wing, II Floor,
Shastri Bhawan,
26, Haddows Road,
Chennai – 600 034.

2. M/s. Exceed Technologies Private Limited,

Sai Square, 12, Aarcatt Road,
Valasaravakkam, Chennai – 600 087.

3. Mr. Charles Valerian Miles,

Director, Exceed Technologies Private Limited,
2420, Inspired CT Henderson,
NV 89052, United States.

4. Mr. Udayashankar Yegneshwaran,

Director, Exceed Technologies Private Limited,
No.H28/G2, TNHB Flats,
1st Seaward Road Valmiki Nagar,
Thiruvannamur, Chennai – 600 041.

... Respondents

Order Pronounced on 20th July, 2021

CORAM :

R.SUCHARITHA, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : Rajkumar Jhabakh, Advocate
For Respondent : None present

ORDER

Per: R.SUCHARITHA, MEMBER (JUDICIAL)

1. The present Application i.e. CA/1431/2019 is filed by the Applicant namely, Income Tax Department under Section 252(1) of the Companies Act, 2013, seeking thereof to restore the name of the Company viz., **M/s. Exceed Technologies Private Limited** in the register maintained by the Registrar of Companies, Chennai, the 1st Respondent herein.

2. MA/242/2020 is an Application which is filed by the Applicant seeking thereof to implead the Respondent Nos. 2 to 4 in CA/1431/2019.

3. Comp. Appl./23/2021 is an Application also filed by the Applicant seeking thereof to effect publication of advertisement in daily newspaper to effect service of notice on the Respondent Nos. 2 to 4.



4. Ld. Counsel for the Applicant submitted that the present Application has been filed against the order of the 1st Respondent in striking off the name of the Company viz., M/s. Exceed Technologies Private Limited, from the register maintained by the Registrar of Companies, Chennai under Section 248(1) of the Companies Act, 2013 through a publication made in Form STK-7 dated 08.11.2017.

5. It was submitted by the Ld. Counsel for the Applicant that the company viz., M/s. Exceed Technologies Private Limited is a company incorporated under the Companies Act, 1956 on 24.02.2004 vide CIN: U72900TN2004PTC052620 as a private limited company and the registered office of the company as per the application is stated to be situated at Sai Square, 153, Arcot Road, Valasaravakkam, Chennai – 600 087. It was submitted that the Authorised share capital of the company is Rs.5,00,000/- and paid-up share capital of Rs.2,76,98,690/-.

6. Ld. Counsel for the Applicant submitted that the company viz., M/s. Exceed Technologies Private Limited was assessed by the Department of Income Tax and it was found that the struck off company received a rent of Rs.75,07,200/- and made cash transactions exceeding a sum of Rs.10 lakh in a month, during the Assessment Year 2012-2013. In this regard, it was

submitted that the company has not disclosed the income and source of such income. Pursuant to the same, it was submitted that a notice dated 30.03.2019 was issued to the struck off company under Section 148 of the Income Tax Act, 1961 by the Applicant and also for reassessing the income tax payable by the said company.

7. Ld. Counsel for the Applicant submitted that in view of the fact that the 1st Respondent has struck off the name of the company from the register maintained by them, there arose an uncertainty in conducting the proceedings or to prosecute the company before any other forum in order to recover the dues which are payable to the Income Tax Department.

8. Further, it was submitted that the Income Tax Department is an aggrieved party within the meaning of Section 252(1) of the Companies Act, 2013 and the Applicant has to recover the tax payable by the company. Under the said circumstances, Ld. Counsel for the Applicant prays for the restoration of the company in the register maintained by the 1st Respondent.

9. In relation to other Application in MA/242/2020 and Comp. Appl/23/2021 it is seen from the record that this Tribunal vide its order dated 23.03.2021 has directed the Applicant to issue

paper publication in "Deccan Chronicle" in English and "Dinamalar" in Tamil and also directed the Applicant to avail other mode of service including "Notice by Affixture". In compliance to the said order, it is seen that the company has filed an Affidavit of Service vide SR.No.2245 dated 23.04.2021. Perusal of the same would show that the service of notice in relation to the Respondent Nos. 2 to 4 is complete; however there was no representation on behalf of them. Hence, MA/242/2020 and Comp. Appl./23/2021 stand **closed**.

10. In relation to the main CA/1431/2019, it is seen that the 1st Respondent namely, the Registrar of Companies, Chennai filed their report. Perusal of the said report shows that there is no significant objection being raised by the RoC in allowing the present Application, however, the 1st Respondent has sought for a direction to submit a report to the RoC furnishing the details of tax assessed and recovery from the company after revival of the company which has been struck off.

11. Heard the submissions made by the Ld. Counsel for both the parties. The Applicant namely Income Tax Department has filed the present application under Section 252(1) of the Companies Act, 2013 seeking for restoration of the name of the company that has been struck off viz., M/s. Exceed Technologies

Private Limited, on the ground that the Company has failed to disclose certain income which has been made during the Assessment Year 2012-2013. It is also seen from the typed set filed along with the Application that the Applicant namely, Income Tax Department has issued a notice No.ITBA/AST/S/148/2018-19/1015570363(1) dated 30.03.2019 under Section 148 of the Income Tax Act, 1961.

12. Section 252(1) of the Companies Act, 2013 states as follows:-

Appeal to Tribunal.—

(1) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies: Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned:

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.



Perusal of said Section would manifest the fact that “any person” can file an application, against the order passed by the Registrar under Section 248 of the Companies Act, 2013 within a period of three years from the date of the order passed by the Registrar. It is seen from the records that the 1st Respondent has issued form STK-7 on 08.11.2017 and the present application has been filed before this Tribunal on 07.11.2019. Further, the Income Tax Department has also satisfied that there are dues which are to be collected / recovered from the company that has been struck off.

13. Under the said circumstances, we hereby order for restoration of the name of the Company viz., M/s. Exceed Technologies Private Limited in the register maintained by the 1st Respondent. Accordingly, CA/1431/2019 stands **allowed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Raymond