

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, MUMBAI**

CP No.1302/252(1)/MB/2018

U/s 252 of Companies Act, 2013

In the matter of

Moss Traders Private Limited
Through its Director & Shareholder
Mr. Ravindrakant Sakharam Surve,
13, Mohan Building, 2nd Floor,
J.S.S. Road, Girgaon,
Mumbai 400 004

... Petitioners

V/s

Registrar of Companies, Mumbai
Everest Building, 100 Marine Drive,
Mumbai 400 002

... Respondent

Order dated 24.08.2018

Coram:

Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Ms. Kala Agrawal, PCS

For the Respondent: None

Per Ravikumar Duraisamy, Member

ORDER

1. This Company Petition is filed by Moss Traders Private Limited, through its Director Shri Ravindrakant Sakharam Surve, seeking relief against the Respondent, *inter-alia* to restore the name of the company

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in the Register of Companies maintained by the Respondent. The Company was incorporated on 27.07.2007.

2. The grievance of the Petitioners is that the Company was struck off under Section 248 of the Companies Act 2013, due to defaults in statutory compliances, viz. failure to file Financial Statements and Annual Returns for the period 2012-13 to 2016-17. They came to know the fact of striking off of the Company when the DIN of Petitioner Shri Ravindrakant Sakharam Surve was blocked due to non-filing of annual returns from 31.03.2013. The petitioner stated that they were under bonafide belief that all compliances were being done. The Petitioners stated that one of their employees was assigned the task looking after the statutory compliance, who has missed out in filing the annual returns. The Petitioner, in defense, stated that the lapse of non-compliance was accidental and they intend to file all annual returns from 31.03.2013 onwards now and make all necessary compliance. Therefore, they pray for restoration of the name of the Company in the Register of Companies.

3. The Respondent side filed a detailed report on 27.04.2018 explaining the sequence leading to the striking off of the company. The Respondent side has further submitted that the Petitioner has admitted the fact of non-filing of statutory returns. In absence of any representation against the proposed strike off action, the Registrar struck off the name of the company on 07.07.2017 and the dissolution order was published on the website of the MCA vide STK 7 dt.19.07.2017. In addition to the publication of the name of the company on web site of the Ministry, the name was also published in official gazette and also another public notice was issued in leading English newspaper (Times of India) and a widely circulated vernacular language newspaper (Maharashtra Times – Marathi) on 10.05.2017.

4. The Respondent prayed in the facts and circumstances of the case the prayer of the petitioner may not be allowed and reliefs sought may not be granted. Respondent has submitted that their name was struck off from the Register of Companies for default viz. non-filing of the statutory returns for more than continuous two years.

5. On hearing the submissions of the Professional appearing on behalf of Petitioners, perusal of the Report of Registrar of Companies, Mumbai and on perusing the documents submitted, it is clear that the Company is in operation and unless the relief sought is granted to the company, the company, members of the company, creditors etc. will be put to greater hardship.

6. Upon perusal of the documents submitted by the petitioner company the Bench Observed that the company is having more than ₹ 3.81 Crores and ₹ 3.81 Crores as noncurrent investments for the financial year ending 31.03.2016 and 2017 respectively. The company also has current liabilities of more than ₹ 14.31 Crores and ₹ 14.17 Crores for the same financial years, Short terms loans and advances for the same period was ₹ 1.55 Crores and ₹ 1.44 Crores respectively. Further, the company also has current investments of ₹ 7.73 Crores as on 31.03.2017, and paid up share capital of the company was ₹ 96,22,000/- as on 31.03.2017.

7. Considering the submissions of the petitioners and the factual position as narrated above the Respondent is directed to restore the name of the Petitioner Company forthwith in the Register of

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Companies subject to payment of a sum of ₹. 1,50,000 (Rupees One Lakh Fifty Thousands Only) as cost payable to NCLT Mumbai within 10 days, and the company shall file all the pending financial statements and annual returns with all the applicable fees and additional fees if any, with the Respondent within a period of 30 days from the date of receipt copy of this order, failing which, this order will stand vacated automatically.

8. The Petition is disposed of in the above terms.

SD/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

SD/-

B.S.V. PRAKASH KUMAR
MEMBER (JUDICIAL)

Sec(PS)