

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH - III

Appeal No.-400/252/ND/2018 ✕

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:

MENON AND ASSOCIATES PRIVATE LIMITED

(Company)

VERSUS

THE REGISTRAR OF COMPANIES

(Respondent)



MEMO OF PARTIES:

**SATISH GOVIND MENON,
Shareholder,
S/o Mr. Kodali Govind Menon,
R/o 60/22, Ramjas Road,
Karol Bagh, New Delhi – 110005.**

...Appellant No. 1

**SMITHA MENON,
Shareholder,
D/o Mr. Hemchandran Nambiar,
R/o 60/22, Ramjas Road,
Karol Bagh, New Delhi – 110005.**

...Appellant No. 2

VERSUS

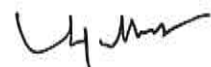
**THE REGISTRAR OF COMPANIES
4th Floor, IFCI Towers,
Nehru Place, New Delhi - 110019**

...Respondent

For the Appellant : Mr. Anant Kumar Jha, Company Secretary

**For the Respondent/RoC : Mr. Shobhit Srivastava, Deputy Registrar of
Companies**

**For Income Tax
(Upon notice by tribunal) : Ms. Lakshmi Gurung
(Standing Counsel for Income Tax Deptt.)**



ORDER

Delivered on: 28 .08.2018

1. This is an appeal which has been preferred u/s 252 of the Companies Act, 2013 by the Appellants in relation to an order of striking off the name of the Company passed by the Respondent with effect from 07.06.2017 under the provisions of Section 248 of the Companies Act, 2013. Learned authorized representative for the Appellants represents that the Company was incorporated under the provisions of Companies Act, 1956 and has its registered office at 60/22, Ramjas Road, Karol Bagh, New Delhi- 110005. The main object of the Company is to carry on the business to promote or acquire any land, pastures, waste lands, jungle, building house, property, develop the land building and any interest in to sale, purchase or lease on own or in association with others and has been carrying on the said business even as of today. Learned authorized representative for the Appellants represents that the Company has been filing its income tax returns with the Income Tax Authorities regularly. However, despite the abovementioned compliance with the appropriate regulatory authority, compliance in relation to the provisions of Companies Act, 2013 with the Respondent RoC by



filing annual returns and financial statements was not complied with and that the said omission is not mala fide.

2. Upon notice to the Registrar of Companies, the RoC has filed its affidavit on 13.06.2018 saying that the present company was struck off by the office of respondent because of the fact that as per the records of the office of respondent neither the company was carrying on any operation for a period of two immediately preceding financial years nor had it obtained the status of a dormant company under Section 455 of the Companies Act, 2013.

3. Upon notice ordered to the Income Tax Department, the Department has filed its report on 04.06.2018 and upon consideration of the appeal it has concluded as follows:
 - i. Income Tax Returns not filed for the assessment years 2012-13 onwards upto 2015-16. Returns filed for the AY 2016-17 and 2017-18 only on 09.02.2018 well after the Company was struck off the rolls of ROC.

4. We have considered the plea of the Appellant and the representations of RoC as well as Income Tax Department. It is evident from the plea of the Appellant that it admits the default and does not question the due process undertaken by the RoC in striking off the name of the Appellant Company as envisaged under Section 248 of the Companies Act, 2013. The Appellant is seeking restoration of its name in the register as maintained by RoC relying on the ground that the Company as of date is carrying on the business for which it was incorporated. In order to sustain the said plea, the Appellant has placed before us the following evidences:

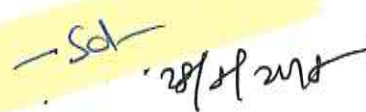
- i. Acknowledgement of Income Tax payments made and returns filed for the assessment year 2016-17 and 2017-18.
- ii. Certified true copy of annual accounts for the financial year 2013-14, 2014-15 and 2015-16.
- iii. Certified true copies of bank statement issued by State Bank of India, Karol Bagh, New Delhi for the period 1st April 2015 to 23rd February 2018.

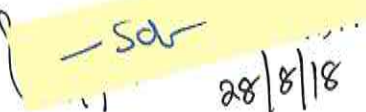
5. We have perused the documents filed by the Appellants and heard the arguments made by the authorized representative of the Appellants. The



details furnished by the ROC and the Sr. Standing counsel of the IT Department have also been considered. It is revealed that the Company has not filed the annual accounts of the Company from the year 2013-14 onwards and has not filed the IT returns for the year 2012-13 onwards. Though the Company has averred in its petition that it has filed the IT returns regularly, it is seen that it is done only for the year 2016-17 and 2017-18 on 09.02.2018 i.e. well after the Company has been struck off the rolls of the RoC. The bank statements furnished by the Company do not reveal substantial transactions to prove that the Company was in operation during the 2 years prior to strike off. The Company has failed to establish that it was carrying in the business during the 2 years prior to strike off.

In view of the above reasons this Tribunal is not inclined to revive the Company and the appeal is dismissed.


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


(R.VARADHARAJAN)
MEMBER (JUDICIAL)