

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

Appeal No.310/252/ND/2017

IN THE MATTER OF:

SUPERIOR TECHNOLOGIES PVT LTD.
B-282, Okhla Industries Area, Phase-I
New Delhi

...Petitioner

VERSUS

THE REGISTRAR OF COMPANIES

...Respondent

Order Delivered on: 05.09.2018

CORAM:

MS. INA MALHOTRA, MEMBER(JUDICIAL)

PRESENT- Advocate Prosenjeet Banerjee & Shreya Singhal for the Appellant
Mr. Shobit Srivastava for the RoC

ORDER

Per Ms. Ina Malhotra (Member Judicial)

This Appeal has been filed by Superior Technologies Private Limited
CIN: U74899DL1987PTC027419, invoking the provision of section 252
of the Companies Act, 2013 for restoration of the name of the appellant

company in the register maintained by the Registrar of Companies, NCT of Delhi and Haryana.

2. As per the averments M/S Superior Technologies Private Limited was incorporated on 26.03.1987 and has its registered office at B-282, Okhla Industries Area, Phase-I, New Delhi within the jurisdiction of this Tribunal. The main object of Company is to carry on the business of electricals & related technology.

3. A sweeping action was initiated by the RoC at the instance of MCA in striking of the names of several Companies who had failed to file their Statutory Returns. The appellant had failed to file its Annual Returns and Financial Statements after the Financial Year ending 31.03.2013 thereby giving rise to the surmise that the business of the company was not in operation. Consequently, its name was struck off by the Respondent from the Register of Companies under Section 248 of the Companies Act, 2013, upon taking steps in accordance with law and issuing a notification in the Official Gazette. The names of the affected companies were posted on its website.

4. The appellant company admits its default in carrying out the statutory compliances but submits that the same was due to division of interest between two groups which involved a global settlement. Pursuant to an MOFS arrived between the two groups, the appellant company came to the share of the present Directors. The appellant

company was riddled with Long Term Loans & liabilities. In order to settle the financial affairs, immovable property of the appellant company has been sold and steps are being taken to liquidate the liabilities and recover Trade Receivables.

5. In order to sustain its plea, the petitioner has placed before us the following evidence:

- i. Copy of Audited Balance Sheet of the appellant company reflecting fixed assets, proceeds from the assets of the appellant company, its Long Term Assets & Liabilities including Trade Receivables & payables.
- ii. Copy of ITR filled reflecting payment of tax for the year ending 2017 pursuant to the sale of immovable property.
- iii. Copy of Sale Deed dated 25.01.2017 executed by the appellant company.

6. The provisions pertaining to restoration of the name of the company has been provided in Section 252 of the Companies Act, 2013 which includes that if in the opinion of the Tribunal it is

considered just and equitable to restore the name of the company in the Register of Companies, it may direct the RoC to restore the name in its Register.

8. A perusal of the documents referred to in paragraph 5 above, reflects that the appellant has certain Assets and liabilities which necessitates restoration of its name in the Register of Companies . The Act itself provides for redressal of these defaults. A step as stringent as what has been taken at least requires an opportunity to the appellant to take remedial measures. Merely to disallow restoration on grounds of its failure to file annual returns would neither be just nor equitable. As per several decisions of various Courts it should only be in exceptional circumstances that Courts should refuse restoration where the company has been struck off for its failure to file annual return as that would be excessive or inappropriate penalty for that oversight.

9. Accordingly, the petition is allowed subject to payment of costs of Rs. 25,000/- to the Prime Minister Relief Fund. The restoration of the petitioner company's name in the Register will be subject to their filing all outstanding documents for the defaulting years as required by law and completion of all formalities, including payment of any late fee or other charges which are leviable by the respondent for the late filing of statutory returns. The name of the petitioner company shall then stand

restored in the Register of the Registrar of Companies (RoC), as if its name of the company had not been struck off.

10. The direction for freezing the Bank Account(s) of the appellant company, if on this ground, shall consequently be also set aside immediately to enable the company carry out its business operation. Compliance of this order for restoration shall be made by the respondent with all its consequential effects within one week of compliance by the appellant.

11. The petition is disposed of accordingly.

12. Let the copy of the order be served to the parties.

Sd/-

Ina Malhotara

Member (J)