

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI
CP NO. 24/252(3)/GB/2017
Diary No. 636/2017

Under Section: 252(3) of the Companies Act, 2013

In the matter of:

M/s. A.G. Cement Pvt. Ltd.

... Petitioner

-versus-

Registrar of Companies, Shillong

... Respondents

Order delivered on 15-11-2017

Coram:

Hon'ble Mr. Justice P. K. Saikia, Member (J)

For the petitioners

:

Mr. Siddarth Sancheti, Advocate

ORDER

1. This application under section 252 (3) of the Companies Act, 2013 (in short "the Act of 2013") read with Rule 87(A) of the National Company Law Tribunal Rules, 2016 (in short "the Rules of 2016" as amended till date, has been filed by the petitioner herein seeking the following reliefs: -

- a) It is humbly prayed that this Hon'ble Tribunal may graciously be pleased to admit this Company Petition, call for the records, issue notice to the respondent and after hearing the parties may further be pleased to allow the Company Petition directing the Registrar of Companies to restore the name of the Petitioner Company on the Register of Companies maintained by the Registrar of Companies, Shillong by placing the Company and all other persons in the same position as nearly as may be as if its name had not been struck off from the rolls of the Register of Companies.
- b) Pass such other order/orders direction/directions as this Hon'ble Tribunal deem fit and proper in the interest of justice and just and proper in terms of Section 252(3) of the Companies Act, 2013.

2. I have perused the petition and in the light of the note of the Registry dated 08-11-2017 I found that the application has been properly filed. Hence, the same is hereby admitted.

3. Heard Mr. S. Sancheti, learned counsel appearing for the petitioner. It has been submitted that the petitioner company is engaged in the business of manufacturing of cement. The petitioner company was originally incorporated under the Companies Act, 1956 on 13-08-2008 as a Private Limited Company under the name and style of A. G. Coke Pvt. Ltd. and subsequently, the name of the petitioner company was changed to M/s. A. G. Cement Pvt. Ltd. in the year 2009 vide fresh certificate of incorporation dated 24-07-2009. Due to certain difficulties in the management etc., it started incurring loss till financial year 2013-14. However, the petitioner company continued to file its annual return and other statutory reports with the Registrar of Companies, Shillong, as required under the provisions of section 92 of the Act of 2013 up to the financial year 2012-13.

4. However, the petitioner company could not file its annual return and other statutory reports to the Registrar of Companies for the financial years 2013-14, 2014-15 and 2015-16. Of course, it has been submitting the Income Tax Returns with the concerned authorities regularly. Consequently, the Registrar of Companies vide notice dated 09-06-2017 had struck off the name of the petitioner company from the register of the companies.

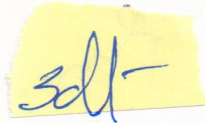
5. On coming to know about aforesaid striking off the name of the petitioner company from the register of companies, the petitioner has approached this Tribunal seeking the aforementioned reliefs stating that while striking off the name of the petitioner, the Registrar of Companies did not follow the prescription of law so rendered in section 248 (1) of the Act of 2013, in as much as, at no point of time any notice was served upon the petitioner company asking it to show cause as to why its name should not be struck off from the register of the companies.

6. That being so, the petitioner company has suffered serious difficulties in continuing its business, since on all the time, it was continuing its business. Of course, it failed to fulfill the requirement of filing of annual return and other relevant statutory reports for three consecutive years.

7. Further, on perusal of the records, particularly, the petition filed by the petitioner, I am of the considered opinion that the respondent should be asked to submit his reply in the form of report as to why the prayer in the petition should not be accepted.

8. A copy of this order along with copy of the petition and other connected documents be served upon the respondent and a copy thereof be sent to Mr. S. C. Keyal, Standing Counsel representing the respondent – Registrar of Companies.

9. The respondent is directed to submit his response in the form of reply on or before the next date.
10. The petitioner is also directed to submit an affidavit affirming compliance of the directions rendered in this order.
11. List the matter on 18-12-2017 for further orders.



Member (Judicial)
National Company Law Tribunal
Guwahati Bench: Guwahati.

Dated, Guwahati, the 15th November, 2017
Deka/15-11-2017