

NATIONAL COMPANY LAW TRIBUNAL

GUWAHATI BENCH: GUWAHATI

CP NO. 23/252/GB/2017

Dy.No.619 of 2017

Under Section 252 of the Companies Act, 2013

In the matter of:

M/s. Mekong Engineering & Infrastructures (P) Ltd. : Petitioner

-versus-

Registrar of Companies, N.E.Region, Shillong. :Respondent

Order delivered on : 07.11.2017

Coram:

PRESENT


HON'BLE MR. JUSTICE P.K. SAIKIA, MEMBER (JUDICIAL)

For the Petitioner: Mr. Amit Pareek, CS
Mr. Chandra Shekhar, CS.

O R D E R

This application under Section 252 of the Companies Act, 2013 has been filed by the applicant/petitioner seeking restoration of the name of the applicant/petitioner company, namely, M/s. Mekong Engineering & Infrastructures (P) Ltd., to the Register of Companies maintained by the Registrar of Companies (ROC), N.E.Region, Shillong. The Registered Office of the said company is stated to be situated at Pioli Nagar, A.T.Road Namtial Pathar,Sivasagar.

Heard Mr. Amit Pareek, CS as well as Mr. Chandra Shekhar, CS appearing for the applicant/petitioner company.



Mr. Amit Pareek, CS representing the applicant/petitioner company submits that the applicant/petitioner company has been doing construction business and it carries such business till date. He also submits that the applicant/petitioner company had been submitting the statutory reports to the authority concerned quite regularly upto the financial year 2014-2015. However, it fails to submit statutory report for the year 2015-2016 due to certain unsurmountable difficulties.


In that connection, it has also stated that the time for submission of statutory report for the financial year 2016-2017 has not yet been over. However, the respondent No.1, namely, ROC, N.E.Region, Shillong without following the prescription of law, rendered in Section 248 of the Companies Act, 2013 struck off the name of the applicant /petitioner company from the Register of Companies in the month of June,2017.

In that connection, Mr. Amit Pareek,CS further submits that the name of a company can be struck off from the Register of Companies if the company fails to submit statutory report for two consecutive financial years. He also submits that before striking of the name of company from the Register aforesaid, to the defaulting company is required to be given opportunity of hearing before striking of its name from the Register.

However, such requirements of law were not followed by the ROC before striking off the name of the applicant /petitioner company from the Register of Companies and therefore, the applicant company has approached this Tribunal seeking the following reliefs:

"Setting aside the order of strike off passed by the Respondent and pass necessary order for the restoration of the name of company on the Register of Companies maintained by the Registrar of Companies, N.E. Region, Shillong without any cost and penalty. And/or such other order/orders direction/directions as may deem just and proper in terms of Section 252(3) of the Companies, 2013"

I have considered the submissions in the light of the averments made in the application U/s. 252 of the Act, 2013 and found reason to admit it.



The Registry is directed to issue notice to the ROC to give response to the allegations made in the application in hand.

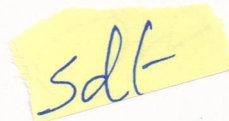
Mr. Amit Pareek, CS has also submitted that copies of the present application along with the connected documents have already been sent to the respondent No.1, ROC, NE Region, Shillong and same also received by it.

A copy of receipt thereof has also been produced before this Tribunal to show that the application in hand has already been furnished to the ROC.

In view of above, the applicant/petitioner is directed to take steps in transmitting a copy of this order to the concerned ROC as well as the learned counsel who represents Central Govt. including ROC.

Registry is directed to send a copy of this order to the ROC, NE Region, Shillong and to Mr. S.C. Keyal, ASG for information and necessary action.

List the matter on 14.11.2017.



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

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