

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

CORAM

CP No. 457/KB/2017

Shri Vijai Pratap Singh
Hon'ble Member(J)

Jinan K.R.
Hon'ble Member(J)

In the matter of Section 252 of the Companies Act, 2013
And

In the Matter of
M.B. Freight Movers Private Limited (Struck Off).
And

In the matter of :
Bimladevi Omprakash Mahipal

..... Petitioner

-Versus-

The Registrar of Companies, West Bengal.

..... Respondent

Order delivered on :

For the Petitioner
Mr. Shashi Agarwal, PrCA.

ORDER

Per Shri Vijai Pratap Singh, Hon'ble Member(J)

Heard Ld. Pr.C.A. representing the petitioner.

2. This is an application filed under section 252 of the Companies Act, 2013 with a prayer to direct the Registrar of Companies, West Bengal, to restore the name of the company (M.B. Freight Movers Private Limited) on the register of

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Sd/-

companies and also direct to place the said company in the same position as if the name of the company has not been struck off. As per Master Data annexed to the application (Annexure-C) that the company was incorporated on 11.04.1972 and its authorised share capital as Rs.50.00 lakh (Rupees Fifty Lakh only) and the paid-up capital was Rs.22.81 lakhs (Rupees Twenty-two lakh Eight-one Thousand Only) and that the status of the company has been shown as "Strike Off". Vide notification dated 30.01.2010 (Annexure-C) issued by the Registrar of Companies, the name of the company has been struck off in the register of companies and the said company stands dissolved on that day. The petitioner who claims to be a director and shareholder of the said company has stated in her application, inter alia, that:

- a) the company was incorporated on 11.04.1972 as a private company limited by shares to carry on the business of investment and trading and as on date (13.09.2017) the company is carrying on the business of investment and trading.
- b) the Registrar of Companies, West Bengal, at the behest of other person wrongfully struck off the name of said company from the register in spite of the fact that the said company is active and at the same carrying on business activities.
- c) the applicant was doing business and regularly carrying on business activities since incorporation but inadvertently the annual return and balance sheet could not be filed for the year ended on 31.03.2006 and subsequent years
- d) the delay on the part of the company had occurred because the company accountant, who was responsible for statutory compliances along with the aforesaid work, had failed to carry out his duties and at the same time the directors/shareholder of the company are persons who do not know all the provisions of the Companies Act.
- e) There is no question of the Registrar of Companies having any reasonable cause to believe that the company is carrying on business or

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in operation and that the company has also not contemporaneously received any letter enquiring whether it was carrying on business or in operation.

3. However, the petitioner, in support of her aforesaid contentions and others made in her pleadings, has not been able to adduce any supporting documentary proof to fortify her application. No records have also been filed whether compliance has been made under other Acts, such as, filing of IT Returns etc. which had to be filed since the company is claimed to be in operation.

4. In view of the above position, the petitioner is directed to furnish the supporting documents justifying her contentions / averments made in the application by an affidavit to be filed within two weeks hereof and a copy to be served upon the Registrar of Companies, the respondent herein.

5. The Registrar of Companies, West Bengal is directed to file a detailed para-wise reply after examining the petition as well as the affidavit to be filed by the petitioner within two weeks after receipt of a copy of the affidavit from the petitioner.

6. List the matter for hearing on

6/12/17

Sd/-

(Jinan K.R.)
Member (J)

Sd/-

(Vijai Pratap Singh)
Member (J)

Signed this 13th day of October, 2017.