

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

T.P. No. 239/KB/2017

Arising out of

C.P. No. 1104/2016

CORAM

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
Chingsue Tannery Private Limited (Struck Off).

And

In the matter of :
Hou King Thain

..... Petitioner

-Versus-

The Registrar of Companies, West Bengal.

..... Respondent

Judgement / Order delivered on

For the Petitioner

Ms.Shreya Choudhary, Advocate.

ORDER

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

Heard Ld. Advocate. 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

sd/-

name of the company (Chingsue Tannery Private Limited) on the register of 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, the company was incorporated on 28.10.1957 and its authorised share capital as Rs.3.00 lakh (Rupees Three Lakh only) and the paid-up capital was Rs.50,000/- (Rupees Fifty Thousand Only) and that the status of the company has been shown as "Strike Off". However, the application does not accompany with a copy of Govt. Notification issued by the Registrar of Companies, striking off the name of the company.

3. The petitioner who claims to be a director having being appointed on and from 30.09.1991 and a shareholder of the said company, has taken a plea that although the annual return as on 2004-05 and the balance sheet and profit and loss account for the year ended on 31.03.2005 were filed but after that the business of the company was gradually fallen and the management could not carry on its business smoothly and they could not maintain the statutory duty as per the provision of law. Moreover, the person who was assigned with the job for filing the above documents has left the service without any notice whatsoever. It came to the knowledge of the management sometime in April, 2016 that the documents are not filed and the person who was looking after the above affair was not coming to the office of the company. Since the status of the company is shown as strike off, no documents could be filed on MCA Portal. It is further claimed that the company is carrying on its business and other related activities from its place of business and is not defunct as per the provisions of section 252 of the Companies Act, 2013.

4. However, the petitioner, in support of his aforesaid contentions and others made in his pleadings, has not been able to adduce any supporting documentary proof to fortify his application. No records have also been filed whether compliance has been made under other Acts, such as, filing of IT

Sd/-

Returns etc. which had to be filed since the company is claimed to be in operation.

5. It appears that since 2005 till 2017 i.e. 13 years, no statutory documents were filed by the company which are mandatorily required under Companies Act, 1956/2013. Surprisingly, during the long spell of 13 years, neither the directors nor the shareholders have not taken any steps to revive the company when they are under full knowledge that the statutory documents were not filed within the prescribed time. Rather, no materials are available in the pleadings in this regard.

6. In view of the above position, the petitioner is directed to furnish the supporting documents justifying his 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.

7. 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.

8. List the matter for hearing on 5/12/17

Sd/-

(Jinán K.R.)
Member (J)

Sd/-

(Vijai Pratap Singh)
Member (J)

Signed this 13th day of October, 2017.