

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

CP No.214/KB/2017

In the matter of :
Companies Act, 2013

And

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

And

In the matter of :

M/s.PB Cement Private Limited (Company
Name Struck Off by Registrar of Companies)

And

In the matter of :

Biswanath Agarwala Petitioner

Vs.

The Registrar of Companies, West Bengal
..... Respondent

Judgment / Order delivered on : 22-08-2017

CORAM : Ms. Manorama Kumari, Member(J)

For the Petitioner :

Mr. Sayantak Das, Advocate
Mr. PP Bishwal, Advocate

For the Respondent :

No one appeared

ORDER

Per Ms. Manorama Kumari, Member(Judicial)

The petitioner has filed this appeal under Section 252 of the Companies Act, 2013 against the order of the Registrar of Companies whereby the name of the company, M/s. PB Cement Private Limited was struck off from the register of companies. The petitioner claims to be the shareholder and Director of the company, holding 20000 equity shares of and in the company. In the instant appeal, he has also prayed for restoration of name of the company in the register maintained by the Registrar of Companies as also other consequential directions.

2. The Registrar of Companies has submitted his report dated 18-04-2017/19-05-2017 along with the statement showing calculation of filing fees and additional fees payable for e-filing the pending documents. But due to some mismatch in the calculation sheet, the ROC has filed the revised calculation sheet drawn upto the financial year, 2016 vide its report dated 17-08-2017. In his report he has, inter alia, stated that (i) the then competent authority had a reasonable cause to believe that the company (incorporated on 09-10-2009) was not functioning or in operation and marked the status of the company as 'Strike off' in the Ministry of Corporate Affairs' portal on 23-09-2013; (ii) the petitioner, Shri Biswanath Agarwala is the Shareholder and Director of the company as per available records in the MCA 21 portal; (iii) As per available records, the company has not filed its statutory documents since 2011 onwards; (iv) if the status of the company is allowed to become 'Active', the petitioner

company may be directed to file all its arrear documents including balance sheets and annual returns up to the year 2016 with normal filing fees and additional fees as applicable in the online mode of Ministry of Corporate Affairs(MCA) system.

3. In the Calculation Sheet submitted along with the aforesaid report, the Registrar of Companies has indicated a total amount of Rs. 62,400/- (Rupees Sixty two thousand four hundred only), on account of filing fees and additional fees payable by the company to the Central Government, if the statutory records not filed earlier, were to be filed now. The petitioner accepts such position and is agreeable to pay the said amount as indicated in the revised calculation sheet (Annexure "A" to the report), as reproduced herein :

Sl.No.	Nature of Document	Period	Normal Filing Fees (in Rs.)	Additional Fees (in Rs.)	Total (in Rs.)
1.	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2011	400	4800	5200
	Annual Return (20B)	30/09/2011	400	4800	5200
2	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2012	400	4800	5200
	Annual Return (20B)	30/09/2012	400	4800	5200
3	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2013	400	4800	5200
	Annual Return (20B)	30/09/2013	400	4800	5200

4	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2014	400	4800	5200
	Annual Return (20B)	30/09/2014	400	4800	5200
5	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2015	400	4800	5200
	Annual Return (20B)	30/09/2015	400	4800	5200
6	Balance Sheet (23AC) and Profit & Loss Account (23ACA)	31/03/2016	400	4800	5200
	Annual Return (20B)	30/09/2016	400	4800	5200
TOTAL			4800	57600	62400

4. On perusal of the report of the Registrar of Companies, it appears that the name of the company was struck off on account of non-filing of statutory documents since 2011. The petitioner has to file the application for restoration of the name of the company in the register maintained by the Registrar of Companies, which can be permitted only on the compliance of statutory requirements as per law, as pointed out by the Registrar of Companies in his report.

5. Though it is not specifically mentioned under which Sub-section of Section 252 of the Companies Act, 2013, the petition is filed, however, on perusal of the petition, it appears that the provision of Section 252 has been enforced with effect from 26-12-2016 and as such, the petition is well within the limitation under both the sub-sections (1) and (3) of Section 252 of the Companies Act, 2013.

6. In view of the above, I hereby allow the petition and direct the petitioner to comply with the statutory requirements by filing the arrear documents including the Balance Sheets and Annual Returns up to the year 2016 and deposit the total amount of fees of Rs. 62,400/- (Rupees Sixty two thousand four hundred only) as reflected in the revised calculation sheet submitted by the Registrar of Companies, within four weeks from the date of this order. Upon deposit of the arrear statutory documents along with filing fees and additional fees by the petitioner, the Registrar of Companies shall restore the name of the company to the register of active companies maintained by the Registrar of Companies and allow access of the relevant portal to the company and its authorized officers. The money will be deposited in the same account of the Central Government where filing fees, additional fees and penalties in such regard are usually received.

7. The C.P.No. 214/KB/2017 is hereby decided and disposed of on the above terms with the following further directions :

a) The petitioner shall deliver a certified copy of this order to the Registrar of companies within thirty days from the date of the order.

b) On such delivery, the Registrar of Companies do, in his official name and seal, publish the order in the Official Gazette.

c) The petitioner do pay to the Registrar of Companies, West Bengal his costs of, and occasioned by, the petition.

8. Certified photocopy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

scl/-
(MANORAMA KUMARI)
MEMBER(J)