

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

C.P. No. 353/KB/2017

CORAM

Shri V.P.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

Pankaj Commercials Builders Private Limited (Struck Off).

And

In the matter of :

Pankaj Commercials Builders Private Limited

..... Petitioner

-Versus-

The Registrar of Companies, West Bengal.

..... Respondent

Judgement / Order delivered on 08.11.17

For the Petitioner

Mr. Ashish Thard, Pr.C.S.

ORDER

Per Shri V. P. Singh, Hon'ble Member(J)

Heard Ld. Pr.C.S. 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 (Pankaj Commercials Builders Private Limited) on the

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register of companies and also declare the petitioner company as "Active" to continue as a going concern etc. As per Master Data, the company was incorporated on 24.06.1992 and its authorised share capital as Rs.10,00,000/- (Rupees Ten Lakh only) and the paid-up capital was Rs.4,37,000/- (Rupees Four Lakh Thirty-seven 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 company has asserted in its application, inter alia, that:
- a) until the year 2010, the company has been duly filing all statutory returns with the RoCWB.
 - b) the petitioner company is a going concern and as such, the operation of the business is being carried on smoothly.
 - c) Mr. Radhey Shyam Manpuria was responsible to look after all other affairs of the company and after his demise on 14.10.2015, it was realised that the name of the company has been struck off.
 - d) It was only because of inadvertences and due to ailing health of Mr. Radhey Shyam Manpuria who demised on 14.10.2015, the RoC formalities could not be complied with.

4. However, it appears from the materials on record that the name of the company was struck off on 15.07.2013 after issuance of notices by RoCWB as per section 560 of the Companies Act, 1956 ; the company has defaulted in filing its statutory returns / documents since 31.03.2011 till the current year i.e. 07 years; the statutory documents for the year ending on 31.03.2007 to 31.03.2010 were filed belatedly under CLSS 2010; each of every directors of the company was/is equally responsible to ensure statutory compliances within the statutory time frame; no explanation is available as to non-filing of statutory returns for the last 07 years keeping the shareholders in dark as to day to day affairs of the company; no steps have been taken either by the Directors or

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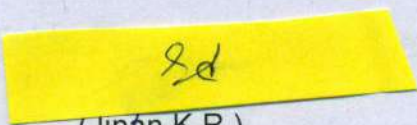
shareholders of the company to restore the name of the company when the name of the company has been struck off on 15.07.2013 and that no Govt. Notification as regards striking off the name of the company has been annexed to the petition.

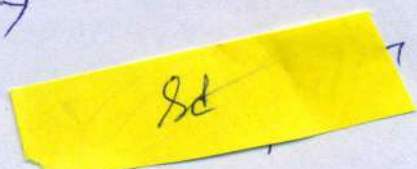
5. However, the petitioner company, in support of its aforesaid contentions amongst others made in the pleadings, has not been able to adduce any supporting documentary proof to fortify its application. No records have also been filed whether compliance has been made under other Acts., which had to be filed since the company is claimed to be in operation.

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. Certified copy of Govt. Notification issued by the Registrar of Companies has also to be furnished along with the affidavit

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 14-12-17


(Jinán K.R.)
Member (J)


(V. P. Singh)
Member (J)

Signed this 8th day of November, 2017.