

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AT NEW DELHI**

Date of Pronouncement: 31st March , 2017

Company Petition No. 1/252 of 2017

In the matter of

The Companies Act, 2013 under section 252(3)

M/s. International Security Printers Pvt. Ltd.

.....Petitioner

Versus

Registrar of Companies

...Respondent

CORAM:

MS. INA MALHOTRA, MEMBER (JUDICIAL)

For Petitioner (s) Mr. Rajiv Dewan, Advocate for Petitioner.

For Respondent(s) Mr. Sanjay Bose, Deputy Registrar and Mr. Manish Raj,
Company Prosecutor, RoC.

ORDER

1. The present petition has been filed under section 252(3) of the Companies Act, 2013 (hereinafter referred as to the 'Act') by M/s. International Security Printers Pvt. Ltd. (hereinafter referred to as the 'Petitioner Company'), praying for restoring its name in the Register of companies maintained by the Registrar (hereinafter referred to as the 'Respondent').
2. The Petitioner Company was incorporated with the Registrar of Companies, N.C.T. of Delhi and Haryana, under the Act, vide certificate of

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incorporation CIN 474920DL1984PTC017591 dated 24.02.1984. Its registered office is stated to be situated at C-44, DDA Shed Okhla Industrial Area, Phase-1, New Delhi, within the jurisdiction of this Court. The paid up capital of the company is Rs 1 Lakh divided into 1000 shares of Rs. 100/- each. At present there are two shareholders namely, Mrs. Neena Luthra and Mrs. Shanti Rani Luthra, each having 500 shares in their names.

3. The main objects of the Petitioner Company as stated in the Memorandum of Association are, inter alia, as follows:-

“i. To carry on the business of printing lottery tickets, cheque books and all types of security printing works including job works and to establish printing presses in all its branches in any part of the world.”

4. The name of the Petitioner Company was struck off from the Registrar of Companies under Section 560 of the 1956 Act, by a suo moto action of the Respondent, after issuing the notification under Section 560(5) in the Official Gazette dated 23.06.2007. The aforesaid action was taken on account of failure of the Petitioner Company to file its statutory returns and other documents since its incorporation, giving rise to the reasonable belief that the company was not operational.
5. The Petitioner's case is that the property of the company, being No.3, Block 1, Khasra No. 587/3(measuring 377.8 sq. yrds) at Desh Bandhu Gupta Road, Multani Dhanda, Paharganj was occupied by a tenant against whom the petitioner company had filed an eviction petition. The



same was decreed in the company's favour. It was only in the appeal filed by the tenant, that they learnt about the status of the petitioner company on the tenant's plea that the petitioner was a defunct company. It is stated that vide a general notification dated 29.06.2006, more than 6000 companies were struck off by the office of the RoC from the Register for want of filing the statutory returns and other documents. The name of the petitioner company appeared at serial No. 5302 in the said notification. No notice was issued to them and neither did the RoC adhere to any legal procedure which required a letter to be sent to the company, making an enquiry whether the company was carrying on any business or not. The Act mandates that if no reply was received within 1 month, then the Registrar had to send a second letter intimating that no reply had been received. Subsequent to the same, the Gazette notification was required to be published and the copy of the notification was required to be sent to the registered office of the company. The name of the company could only have been struck off after expiry of 3 months thereof before the stood company dissolved. It is averred that without adhering to the aforesaid procedure, the impugned action is vitiated and is in gross violation of the principles of natural justice as no opportunity for hearing was given before taking the impugned step.

6. It is also the petitioner's defence that the entire records of the company had been entrusted to their Company Secretary for filling the required returns with the office of RoC who had let them down. Steps have now



been taken to update the records by employing another Company Secretary. The petitioner has filed on record the Balance Sheets for the last several years in support of their claim of carrying on business. It is further stated that large amounts have been spent on renovation of the office in the interregnum to facilitate the business operations.

7. In the Reply Affidavit filed by the Respondents, it is submitted that due steps had been taken in accordance with the statutory provisions before striking off the name of the petitioner company from their register. The action was initiated as the Petitioner company did not file any Balance Sheet and Annual Return since its incorporation which gave rise to the reasonable belief that the petitioner company was not in operation. Further, it is stated that the grounds of default cannot not be believed in the absence of any details of the Company Secretary who was allegedly entrusted with the filing of the statutory returns.

e.) The respondents however have failed to rebut the allegations that no steps were taken in compliance of the mandatory provisions of Section 560(1), 560(2) and 560(3) of the 1956 Act which are a pre requisite for striking off the name of the Company from the Register. In the absence of any material to substantiate adherence to the mandatory provisions, the impugned action of the Respondent would be arbitrary, illegal and against the principles of natural justice.



8. It has been stated by learned counsel appearing on behalf of the Petitioner Company that the present petition is within the period of limitation stipulated by Section 560(6) of the Act.
9. Upon perusal of the submissions made that and keeping in view the law laid down in the matter of ***Purushottamdass and Anr. (Bulakidas Mohta Co. P. Ltd.) V. Registrar of Companies, Maharashtra, & Ors., (1986) 60 Comp Cas 154 (Bom)***, wherein the **Hon'ble Bombay High Court** has held inter alia, as hereunder:

“the object of Section 560(6) of the Companies Act is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within period of 20 years, and give them an opportunity of carrying on the business only after the company judge is satisfied that such restoration is necessary in the interest of justice”

The above said judgement was also followed by the **Hon'ble High Court** of Delhi in Co. Pet. 23/2016 titled as **“Ascot Shoes Private Limited Versus Registrar of Companies”** and in several other cases such as **Pancham Hotels Pvt. Ltd v. Registrar of Companies**, bearing Company Petition No. 554/2014; **M/s Medtech Pharma (India) Pvt. Ltd v. Registrar of Companies**, bearing Company Petition No. 241/2009; **M/s Santaclaus Toys Pvt. Ltd v. Registrar of Companies**, bearing Company Petition No. 271/2009; **M/s Deepsons Non- Ferrous Rolling Mills Pvt. Ltd Ltd v. Registrar of Companies, NCT of Delhi and Haryana**, bearing Company Petition



No. 285/2009; **M/s Kakku E and P Control Pvt. Ltd v. Registrar of Companies, NCT of Delhi and Haryana**, bearing Company Petition No. 409/2008; **M/s Sohal Agencies Pvt. Ltd. Registrar of Companies, NCT of Delhi and Haryana**, bearing Company Petition No. 297/2009.

10. In view of the foregoing, upon considering the facts and circumstances of the present case and in the light of the settled position of the law, I am of the view that it would be just and proper to order restoration of the name of the Petitioner Company in the Register of Companies maintained by the Respondent. At the same time, however, there is no gainsaying the fact that a greater degree of care was certainly required from the petitioner company in ensuring statutory compliances. Looking to the fact that annual returns and balance sheets were not filed, the primary responsibility for ensuring that proper returns and other statutory documents are filed, in terms of the statute and the rules, remains that of the management.
11. Upon the Petitioner Company filing all the statutory documents i.e Annual Returns and Balance Sheets along with the prescribed filing fee and additional fee in compliance with all the statutory requirements, the name of the Petitioner Company, its Directors and members shall, stand restored to the Registrar of Companies maintained by the Respondent, as if the name of the Petitioner Company had not been struck off.



12. Accordingly, the petition is allowed. The restoration of the company's name to the Register maintained by the Registrar of Companies will be subject to payment of costs of Rs. 25,000/- to be paid to the Prime Minister Relief Fund, and on completion of all formalities, including payment of any late fee or any other charges which are leviable by the respondent for the late deposit of statutory documents within 8 weeks; the name of the petitioner company, its directors and members shall, stand restored to the Register of the respondent, as if the name of the company had not been struck off, in accordance with S.252(3) of the Companies Act, 2013.

13. Liberty is granted to the respondent to proceed with penal action against the petitioner, if so advised, on account of the petitioner's alleged defaults in compliance with any other provisions of the Companies Act, 2013 and Rules, including Section 192.

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(Ina Malhotra)
Member Judicial