

**IN THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”**

CP NO.236/Chd/CHD/2017

**Under Section 252(3)
of the Companies Act, 2013**

In the matter of:

CAN & ABLE Entertainment Pvt.Ltd.
House No.5814-A, Sector 38 West,
Chandigarh -160036

...Petitioner/Applicant

Versus

Registrar of Companies,
Punjab & Chandigarh
Corporate Bhawan, Plot No.4B,
Sector 27B, Madhya Marg,
Chandigarh -160019.

...Respondent

Order delivered on : 28.11.2017

Coram: Hon'ble Mr.Justice R.P.Nagrath, Member (Judicial)

Present: Mr.Deepankur Sharma, Advocates for petitioner.

ORDER (Oral)

This petition has been filed under Section 252(3) of the Companies Act, 2013 (for short to be referred hereinafter as the Act) in Form NCLT-9 as prescribed in Rule 87(A) of NCLT Rules, 2016 as inserted by way of amendment vide notification dated 05.7.2017. The petitioner-company was incorporated on 08.07.2010 under the Companies Act, 1956 with its Head Office at Chandigarh and allotted CIN U92100CH2010PTC032324. Copy of Certificate of Incorporation is at Annexure A-1 of the paper book.

2. The main objectives of the company are –

- “i) To organise and conduct entertainment programmes, live shows, music shows, laser shows, artistic shows, magic shows, light shows, fashion shows, beauty shows, business promotion programme, competition in art & glamour & in cultural activities like singing and dancing;
 - ii) To carry on the business of advertising & earn a reputation as a powerful brand in communication agency with capabilities to create an effective advertising campaign to establish the brands by using best methodologies & selling of advertising planning to create designs of all types of advertising media, buying & selling of advertising media, organising special events, trade shows or exhibition or any other activity to promote the sale or branding in the interest of its clients;
 - iii) To carry on the business of exhibitors, distributors or exhibition of T.V. serials, films, audio video movies & motion pictures documentaries, advertisement in audio-video forms including cinema studio & cinematographic stage shows & exhibitions.”
3. Copy of Memorandum and Articles of Association of the company is at Annexure A-2. As per master data of the company, Annexure A-5, it seems that the company did not file its Balance Sheet since its incorporation. The name of the company was struck off by the Registrar of Companies vide notification dated 15.07.2017 Annexure A-3 (Serial No.1833 at page 52) of the paper book.
4. The authorised share capital of the company is ₹1.00 lakh divided into 10,000 equity shares of ₹10/- each. Same is the paid-up share capital of the company. The company has 2 shareholders; both are the Directors of the

company as per the master data filed at Annexure A-5. It is stated that the company is carrying on the business when the name of the company was struck off for non-filing of Balance Sheets in the office of Registrar of Companies.

5. Notice of this petition was issued to Registrar of Companies, Chandigarh and the ROC, Chandigarh has submitted in his report that there is no objection to the restoration of the name of the company.

6. I have heard learned counsel for petitioner, the Company Prosecutor and perused the record.

7. For enabling a Company to revive, the Company has to show that it was carrying on business or in operation at the time when its name was struck off. This petition has been filed by Mr. Munish Arora who is one of the shareholders of the company and any member of the company can file such a petition if the name of the company is struck off and there is also consent from the other shareholder to file this petition Annexure A-13.

8. It is stated that the company is conducting Annual General Meetings, preparing Board reports, preparing significant accounting policies and notes to the accounts forming part of the Balance Sheet, audit reports etc. regularly. Recently, the Airports authority of India, Shimla has accepted the quotation of the petitioner-company for the work of inauguration of RCS Flights from Shimla airport, while providing and making the arrangement for stages, video wall, flower and other décor, video and still photography, etc. for which a letter dated 24.04.2017 has been received by the company from the concerned authority as at Annexure A-10. The company has also applied for GST registration No. for the company and provisional registration has been granted vide certificate dated 27.06.2017 Annexure A-11.

9. The additional documents have been filed with the affidavit of the petitioner dated 24.11.2017. Along with this affidavit, the documents in proof of the fact that the company has been carrying on its business have been filed. The audited balance sheet for the years 2013-14 to 2015-16 are at Annexures A-14, A-15 and A-16 with this affidavit. Copies of Income Tax returns, many of which have been filed before the name of the company was struck off are from Annexures A-17 to A-22 with this affidavit. The balance sheet for year ending 31.03.2014 Annexure A-14 with the additional documents shows that the revenue from operations was ₹98,61,144/- and the revenue from operations for the year ending 31.03.2013 was ₹40,17,527/-. The company earned a profit of ₹4,17,797/- for the year ending 31.03.2014. The expenditure statement also shows that the expenditure incurred during this year was ₹92,57,017/-. As per the balance sheet Annexure A-15 for the year ending 31.03.2015, the revenue from operations was ₹26,22,744/-, but the company went into losses during the said year and the loss was to the tune of ₹6,81,748/-. The financial statements for the year ending 31.03.2016 is at Annexure A-16 which show that the revenue from operations was ₹1,40,76,137/- whereas the profit during this year was ₹10,43,252/-

10. Annexure A-18 is the acknowledgement of filing of the Income Tax Return for the assessment year 2013-14. It was filed on 11.02.2016 showing the gross income to the tune of ₹5,27,197/- and little more than that was the gross income during the year 2014-15 as per the acknowledgement of ITR filed on 06.08.2016 (Annexure A-19). For the Assessment Year 2016-17 the petitioner-company has a gross income of ₹10,67,591/- and for the Assessment Year 2017-18 the gross income was ₹9,42,330/-. All these returns except for the Assessment Year 2017-18 were filed before the name of the company was struck off.

11 Learned counsel for petitioner referred to the letter Annexure A-10 filed with the main petition in proof of the fact that the Airport Authority of India, Shimla has offered to award the contract to the company for which reference has already been made while describing the facts of the case.

12. In view of the above, I find that there is enough evidence to show that the company was carrying on its business at the time its name was struck off. The petition is, therefore, allowed and the name of the company be restored subject to deposit of ₹50,000/- as costs which is to be deposited within 15 days from the date of receipt of certified copy of this order with the Pay & Accounts Office of the Ministry of Corporate Affairs in respect of the office of Registrar of Companies, Chandigarh. The petitioner shall deliver certified copy of this order to the Registrar of Companies, Chandigarh within a period of 30 days from the date of receipt of certified copy of this order. The Registrar of Companies shall be at liberty to take appropriate proceedings with regard to the delay in not filing of the Annual Returns and Balance Sheets for so many years. This restoration is without prejudice to any proceedings which may be pending with the Income Tax authorities against the petitioner-company.

Sd/-
(Justice R.P. Nagrath)
Member(Judicial)

November 28, 2017
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