

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/85/(252)/2017

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

In the matter of

M/s. D3R Gateway Logistics Private Limited
Vs.
The Registrar of Companies, Tamilnadu, Chennai

Order delivered on 9th of November, 2017

CORAM

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant(s) : Mr. Inbavadiyu, Counsel
For Respondent(s) : Mr.B. Sarath Babu, Counsel

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under consideration is a Company Application that has been filed on 29.08.2017 under Section 252 (3) of the Companies Act, 2013 by the Applicant Company viz., M/s. D3R Gateway Logistics Private Limited having CIN No.U63020TN2009PTC073773 and its Registered Office is situated at No. 31/75,

Meenambal Salai, Krishnamurthy Nagar, Kodungaiyur, Chennai – 600 118. The prayer is made to seek order for restoration of the name of the Applicant Company to the Register of Companies maintained by the concerned Registrar of Companies.

2. The Applicant Company is a private limited by shares and got incorporated on 03.12.2009 under the Companies Act, 1956. The Authorised Share Capital of the Applicant Company is Rs.50,00,000/- divided into 5,00,000 equity shares of Rs.10/- each. The issued, subscribed and paid-up capital is Rs.2,00,000/- divided into 20,000/- equity shares of Rs.10/- each. The main object of the Applicant Company is to acquire, own import all materials, substances, appliances machines containers and such other articles and apparatus and things capable of being used in the main business; to acquire building, alter, maintain, remove or replace and to work, manage and control building, offices, shops, machinery and conveniences; repair, alter improve, exchange import

all machinery, tools, utensils, appliances, apparatus products, materials, substances, articles and things capable of being used in the main business, etc.

3. It has been submitted by the Applicant Company that after incorporation, the Applicant Company was regularly conducting the Annual General Meeting every year and the company also filed all its annual returns regularly with the Registrar of Companies, Tamilnadu, Chennai but, due to oversight the Applicant Company failed to file the annual returns for the last four years with the Registrar of Companies. Hence, the name of the Applicant Company was 'struck off' from the Register of Companies under Section 248(5) of the Companies Act, 2013 read with Rule 3 of the Companies (Removal of Name of Companies from the Register of Companies) Rules, 2016.

4. Now, the Applicant Company prayed that in the event of restoration of the name of the Applicant Company in the Register of Companies maintained by the concerned Registrar of Companies, it shall file all

outstanding statutory statements for the years for which the default occurred along with the filing fees and the additional fees as applicable on the date of actual filing.

5. The Counsel appearing for the RoC filed the report on 06.11.2017 wherein it has been stated that the Applicant Company filed the Balance Sheets and Annual Returns upto the financial year 2012 and thereafter, the Applicant Company chose not to file the same. Hence, the Respondent has initiated action under Section 248(1) of the Companies Act 2013 for striking off the name of the Applicant Company from the Register of Companies, and consequently, the name of the Applicant Company was 'struck off' from the Register of Companies and was published in Official Gazette dated 15-21st July, 2017. It is further stated that the RoC has no objection in restoring the name of the Applicant Company back to the Register of Companies with such costs as deemed fit and proper.

6. We have heard the Counsels appearing on behalf of the Applicant and the RoC, and perused the record. Keeping in view the facts and circumstances involved in the case and the submissions made by both the Counsels for the Applicant and RoC, we allow the Application and order for restoration of the name of the Applicant Company to the Register maintained by the concerned RoC. We direct the Applicant Company to deliver a certified copy of this Order to the Registrar of Companies within 30 days from the date of this order. On such delivery, the concerned Registrar of Companies shall in his official name and seal, publish the Order in the Official Gazette, as prescribed.

7. We direct the Applicant Company to file all pending Financial Statements and Annual Returns with the concerned Registrar of Companies by making compliance with the requirements prescribed under the provisions of the Companies Act, 2013 and the Rules made thereunder within the time as may be granted by the concerned Registrar of Companies.

8. The Applicant Company is further directed to submit an Undertaking to the Registrar of Companies stating therein that the accounts of the Company were not used as means to transact tainted money during the period of demonetization.

9. We impose fine to the tune of Rs.10,000/- on the Applicant Company which shall be disbursed to the concerned Office of the Registrar of Companies as per the procedure prescribed for the purpose of the expenses to be incurred by the Registrar of Companies for processing the case file of the Applicant Company for getting the name of the Company restored to the Register of the Companies.

10. Accordingly, the Application stands disposed of.

S. Vijayaraghavan
S.VIJAYARAGHAVAN,
MEMBER (TECHNICAL)
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CH. MOHD SHARIEF TARIQ
CH.MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)