



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH - VI
Appeal No.79/252/ND/2022

IN THE MATTER OF:

INCOME TAX OFFICER, WARD 20(3), NEW DELHI New Delhi

...Appellant

VERSUS

1. REGISTRAR OF COMPANIES, DELHI

Office at: 4th Floor, IFCI Tower, 61,
Nehru Place, New Delhi – 110019

...Respondent No. 1

2. M/S QUIVER REALTORS PVT. LTD.

B 165, Flat No. D, Ground Floor,
New Ashok Nagar, Delhi 110096

...Respondent No. 2

3. VINOD KUMAR MAURYA,

Director B-165, Flat No. D,
Ground Floor, New Ashok Nagar,
Delhi 110096

...Respondent No. 3

4. NAKUL BHARANA,

Director B-165, Flat No. D, Ground Floor, New Ashok Nagar, Delhi
110096

...Respondent No. 4

Order Delivered on: 14.11.2022

CORAM:

SHRI. P.S.N. PRASAD, MEMBER, (JUDICIAL)

SHRI. RAHUL BHATNAGAR, MEMBER, (TECHNICAL)

PRESENT-

For the Appellant: Mr Puneet Rai, Sr. Standing Counsel and Ms Adeeba
Mujahid Jr. Standing Counsel for IT Dept.

Appeal no. 79/252/ND/2022

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ORDER

Per P.S.N. Prasad, Member, (Judicial)

1. This appeal has been filed by Income Tax Authority, invoking the provisions of Section 252 of the Companies Act, 2013, for restoration of the name of the Respondent No. 2 Company, M/s Quiver Realtors Pvt. Ltd., in the Register of Companies, maintained by the Registrar of Companies ("RoC"), Respondent no.1.
2. Service of notice was duly effected on the Respondents. Other than the RoC, none appeared on behalf of the other Respondents to oppose the prayer made by the Appellant, on any of the dates of hearing. Therefore, they were declared ex-parte, vide order dated 26.07.2022. The ARoC appeared on behalf of the RoC and submitted that they have no objection to prayer of the Appellant being granted by this Tribunal.
3. The name of the Respondent no. 2 was struck off from the register of companies on 29.10.2019 vide Form STK-7.
4. Invoking the provision of Section 248 of the Act, the Income-Tax Department prayed for its restoration in order to carry out proceedings initiated against Respondent no. 2. As per the Information collected and received by the Income Tax Department, the Income of the Respondent Company has escaped assessment for AY 2015-16. That the Assessee Company/Respondent No. 2 and its Directors (Respondent No. 3 and 4) have failed to carry out their

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obligations and violated provisions of Income Tax Act 1961. Proceedings were initiated against the Respondent Company and notice bearing no. ITBA/AST/S/148/2020- 21/1032077968(l) under Section 148 of Income Tax Act, 1961 was issued against the Assessee/Respondent Company on 31.03.2021 for the Assessment Year 2015-16.

5. There is also outstanding demand vide demand notice dated 30.03.2022 against the Respondent Company of Rs. 3,02,03,050 under Section 156 of the Income Tax Act, 1961.
6. The Grievance of the Income Tax Department is that the name of the Respondent Company had been struck off by the RoC thus, seriously affecting the recovery of Respondent Company's tax liabilities. Therefore, for recovering the tax dues and for any further consequential proceedings against the company under the Income Tax Act, 1961, it is just and equitable and in public interest that the name of the respondent company be restored in the register of companies, as if the name of the company had not been struck off from the Register of Companies.
7. Ld. Counsel for the Income Tax submitted that the aforesaid facts necessitate restoration of the name of the Respondent Company in the Register of Companies to proceed further in accordance with law. In view of the grounds raised by the applicant, being an aggrieved person, their prayer can be entertained u/s 252 of the Companies Act, 2013.

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8. The Respondents were set ex-parte vide order dated 26.07.2022 and in view of the grounds raised by the Appellant, which remain unrebutted, the prayer of the Appellant merits consideration. The appeal is therefore allowed. The RoC is therefore directed to restore the name of Respondent 2, in its register and also proceed to take such other and further action against the respondents in accordance with the statutory provisions.

9. We, however, make it clear that this Bench has only directed restoration of the name of the Respondent No. 2 Company in the Register of Companies, maintained by the RoC, on the basis of averments made in the petition and have in no way endorsed or adjudicated about the Appellants entitlement to recover any amount as tax etc. which shall be adjudicated by the Department and the appellant authorities, subject to the laws of limitation governing such recoveries. Charges involved in seeking restoration of the company's name with the office of the ROC shall be borne by the appellant. The appeal is disposed of in terms of the above. Compliance be made with the ROC within 30 days.

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(Rahul Bhatnagar)
Member (Technical)

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Member (Judicial)