



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-V**

CA No. 88/252/MB/2023

Under Section 252(3) of Companies
Act, 2013

In the matter of

WIG ASSOCIATE PVT LTD

102 ,Amar Residency, Punjab Wadi,
Sion Trombay Road, Deonar, Mumbai
400 088

In the matter of

Puneet Mahendra Wig
Represented by its Director,
Flat no.702, Amar Residency
Opp. Vijay Punjab Hotel, Punjabwadi,
S.T Road, Denoar, Mumbai 400 088
Contact no:9821044427
Email:wigs@rediffmail.com

... Appellant/ Petitioner

V/s.

**THE REGISTRAR OF COMPANIES,
MUMBAI**

100 Everest, Marine Drive,
Mumbai 400 002

... Respondent

Order dated on 23.02.2024

**Coram:**

Reeta Kohli , Hon'ble Member (Judicial)

Madhu Sinha, Hon'ble Member (Technical)

For the Applicant: Shri .Mayank Arora , Advocate**ORDER*****Per: Madhu Sinha, Member(Technical)***

1. This present appeal has been filed under Section 252 of the Companies Act, 2013 (hereinafter as Act) by “M/s. Wig Associate Private Limited”, having share capital of the Company is Rs.25,00,000 divided into 25,000 equity shares of Rs. 100/- each seeking relief against the respondent, *inter-alia* among other things, to restore the name of the company in the Register of Companies maintained by the Registrar of Companies, Mumbai and allow filing of the annual return for the financial year from 2016-2017 to 2021-2022.
2. The name of the Company was struck off from the Register on account of the reasons that, the Company has failed to file of its statutory returns for a continuous period of more than seven years and have not made any application within such period for obtaining the status of Dormant Company under Section 455 of the Act. The ROC has published a public notice for Striking off and Dissolution of Company i.e. STK-7 dated 20.02.2020.

Submissions from the Appellant:



1. It is submitted that the company was incorporated on 07th September 2007 as a Company limited by shares under the Companies Act, 2013. The Company was registered with the Registrar of Mumbai, having CIN U25209MH2007PTC173910. The Company had filed an application on 10th July 2017 under section 10 of the I&B code as a “Corporate Debtor” for initiating Corporate Insolvency Resolution Process, which was admitted by the Hon’ble Tribunal vide order dated 24th August 2017, and also a moratorium was commenced by appointing Me S.K. Gola as Interim Resolution Professional. Pursuant to the CIRP, an Expression of Interest (EoI) was received from Mr. Mahendra Wig, which was duly approved by 100% CoC voting. The Resolution Plan was admitted by the Hon’ble Tribunal through its Order dated 04.06.2018, finalizing the total infusion of Rs.326 lakhs towards the payment of its total admitted claim. In compliance with the order dated 04.06.2018, the resolution professional settled all the debts pursuant to the resolution plan.
2. It is also submitted that, since the Company was in CIRP, the financials and balance sheets of the Company were not signed and hence, the Resolution Professional could not file the same with the Office of the Registrar of Companies.
3. In the meanwhile, while making an inquiry on the portal www.mca.gov.in regarding the filing of the annual return and balance sheet of the Company, the representative of the company found that the name of the Company was already struck off from the register of files maintained by the Registrar. Going through the MCA portal, the Petitioner found the notice no-ROC/MUM/Section-248/294/STK-7/405 by the Registrar of Companies, Mumbai, in Form STK-7 published on 20.02.2020, wherein the name of the Company was struck off, and dissolved with effect of 20.02.2020.
4. It is further submitted that, the Company is carrying on business and is in operation. The Company had made revenue of 90,000/- in the financial



year 2021-2022 and having cash and balance of Rs.2,53,400 /- reflecting in the financial year 2021-2022.

5. Furthermore, the Appellant submits that, there was an admittedly delay on the part of the Company in filing the annual return and balance sheet of the year 2016-2017 till 2021-2022. The delay was unintentional due to lack of knowledge of the compliance of Companies Act 2013. The Company took steps for filing the annual return and balance sheet in the same year but the Respondent refused it on the ground of “Struck off”.
6. Further the Appellant states that, the Appellant was unaware about the notification of striking off the name of the Company from the Respondent. when the representative of the Company went to file the statutory documents as per the requirement of the Act, the Appellant came into knowledge of the status of the Company is “Struck off”.

Submissions from the Respondent/RoC:

1. The Respondent/ ROC has prepared a detailed report and have submitted the same in affidavit in reply to this Tribunal, explaining the sequence of events leading to the striking off of the company. It is stated that the appellant has failed in filing of its statutory returns for a continuous period of more the two years as per the provisions of the Companies Act, 2013 undertaken at time of incorporation and hence, the Company had been considered for being struck off by the Registrar of Companies, Mumbai, in *suo moto* action under the provisions of Section 248 of the Companies Act, 2013 and also in pursuance of the circulars issued by the Ministry of Corporate Affairs, Government of India, New Delhi from time to time.
2. The Respondent side issued notice STK-1 on 19.07.2019. The RoC/Respondent had issued a public notice in Form STK-5 dated 28.08.2019 in a leading English newspaper (Times Of India) and in vernacular language newspaper (Maharashtra Times-Marathi) on



29.08.2019, seeking objections against the proposed striking off of the name of the Company from the Records of the Registrar of Companies.

3. RoC/Respondent further submitted that in absence of any representation against the proposed strike off action and the documents required to be submitted by the Appellant not being filed with the Registrar, the Registrar struck off the name of the company under section 248 of the *Companies Act, 2013* on 10.01.2020 and the dissolution order was published on the website of the Ministry vide STK -7 on 20.02.2020.

Findings:

- a. The facts and circumstances of the case show that the relevant documents and forms which are to be filed by the Company.
- b. As the Company was in Corporate Insolvency Resolution Process (CIRP), the financials and balance sheets of the Company were not signed, and the Resolution Professional could not file them with the Office of the Registrar of Companies. Additionally, there was admittedly a delay on the part of the Company in filing the annual return and balance sheet for the year 2016-2017 until 2021-2022. The Appellant is now ready with the essential documents and is willing to file them, if permitted.
- c. The Appellant enclosed the Audited Annual Accounts for the Financial years 2016-2017 to 2021-2022 and the documents of the land and factory building located at TTC Industrial Area amounting to Rs. 1 Crores, with the Appeal to demonstrate that the Company is in continuous operation.
- d. Hence, upon considering the facts and circumstances of this present appeal, this Bench observes that, the appeal has been filed after a period of 7 years by the Director of the M/s. Wig



Associate Private Limited before the Tribunal as per the provision of 252(3) of the *Companies Act 2013*. This Bench is therefore of the view that, it would be just and proper to order restoration of the name of the Company in the Register of Companies maintained by the ROC Mumbai.

ORDER

Accordingly, this Appeal is allowed. The restoration of the Company's name in the Register of Companies maintained by the ROC Mumbai, is hereby ordered, **subject to payment of cost of Rs. 25,000/- per Financial year for Non-Compliance, i.e. from the year 2016 to 2023 totaling amount of Rs.2 Lakhs** in the account of "Bharat Kosh". The appellant Company shall undertake to abide by the Provisions of the Companies Act, 2013. Consequentially thereupon the Bank Account/s if frozen on amount of non-compliance, shall get defreeze and be eligible to be operated by the Company.

The Registrar of Companies, Mumbai shall give effect of this Order only after perusal of the Compliance report of the cost imposed. The Company is directed to file all the required documents and shall fulfil other relevant statutory compliances within 30 days from Restoration of its name in the Register of Companies maintained by ROC.

SD/-

Madhu Sinha
Member (Technical)

/Priyanka/

SD/-

Reeta Kohli
Member (Judicial)