



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I), SPECIAL BENCH**

C.P. No. 249/KB/2022

A Petition u/s. 252(3) of the Companies Act, 2013;

And

In the matter of:

Megamix Dealers Private Limited (CIN: U51101WB2010PTC144565), a company incorporated under the Companies Act, 1956 and being a company within the meaning of the Companies Act, 2013 and having its registered office at 2A, Ganesh Chandra Avenue, 6th Floor, Room No. 4A, Kolkata - 700013;

.... Struck Off

And

Mr. Promod Kumar Choudhary, son of Shri Basant Lal Choudhary and residing at Lalmati Sahebganj, Jharkhand – 816129;

And

Mrs. Nitu Choudhary, daughter of Shri Nawal Kishore Kyal and residing at Diamond City South, 58 Tollygunj, Paschim Putiari, Kolkata- 700041.

... Petitioners

-Versus-

The Registrar of Companies, West Bengal, having its office at the Ministry of Corporate Affairs at Nizam Palace, 2nd MSO Building, 234/A, Acharya Jagadish Chandra Bose Road, 2nd Floor, Kolkata- 700020.

..... Respondent

Date of Hearing: 09/09/2022

Date of Pronouncement: 28/09/2022

Coram:

Shri P. Mohan Raj, Member (Judicial)

Shri Balraj Joshi, Member (Technical)



Appearances:

Mr. Gopal Kumar Khetan, PCA

- For the Petitioners

ORDER

Per Balraj Joshi, Member (Technical):

1. This Company Petition has been filed by one namely **Mrs. Nitu Choudhary, one of the Shareholders of** Megamix Dealers Private Limited (Struck off company) u/s 252(3) of the Companies Act, 2013 for restoration of name of the struck off company in the register of companies, maintained in the office of the Registrar of Companies, Kolkata. It is stated that the name of the Company was **struck off on 17/06/2022**.
2. It is contended that the last filed Balance Sheet of the Company was upto 31.03.2021. It is further contended that the Company has Current Liabilities of Rs. 72,79,059.25 and Assets of Rs. 72,79,059.25 for the year 2020-2021 and it will be unfair to the Creditors and the Company if the company remained struck-off and the Creditors do not receive their dues. Upon the said contentions, the Ld. Authorized Representative for the Petitioner prayed for passing of an order for restoration of the name of the Petitioner Company.
3. A notice was issued to the Registrar of Companies, West Bengal against which the Registrar of Companies, Kolkata had submitted a report. It was stated in the report that only after compliance of the requirements to be met under Section 248 of the Companies Act, 2013, the Registrar of Companies, Kolkata, has struck off the name of the company from the register.
4. The Registrar of Companies, West Bengal had made an observation to this application vide their report dated 19th August, 2022 where they had questioned the locus standi of one of the shareholders of Mr. Promod Kumar Choudhary, being the Applicant No. 1 in filing of the instant application. However, no observation has been made in respect of shareholder Mrs. Nitu Choudhary being the Applicant No. 2. The Applicant in this regard contends that there was a change in the shareholding pattern of the company and the applicants have filed the instant application in their capacity as shareholders of the Company. The requisite documents namely the Share Transfer Instrument (SH-4) and



an Auditor's Certificate verifying the present shareholder's list has been submitted to the concerned Registrar of Companies on 31st August, 2022.

5. On perusal of the application, we are satisfied that the name of the company should be restored to the register. Therefore, this petition deserves sympathetic consideration. Accordingly, the present petition is allowed on the following terms:-

- a) The Registrar of Companies, West Bengal the Respondent herein, is directed to restore the original status of the petitioner company as if the name of the Company had not been struck off from the register of companies with the resultant and consequential actions like changing status of petitioner company from '**Struck Off**' to '**Active**'.
- b) The Petitioner Company is directed to file all the pending statutory document(s) including Annual Accounts and Financial Statements along with prescribed fees/additional fee/fine as decided by Registrar of Companies, West Bengal within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, Kolkata.
- c) The restoration of the Company's name is also subject to the payment of cost of **Rs. 10,000/- (Rupees Ten Thousand Only)** through online payment in www.mca.gov.in under Miscellaneous Fee by mentioning particulars as **"Payment of cost for restoration of company pursuant to orders of NCLT in C.P. No. 249/KB/2022"**.
- d) The petitioner is directed to deliver a certified copy of this order with Registrar of Companies, Kolkata within thirty days of the receipt of this order.
- e) On such delivery and after due compliance with the above directions, the Registrar of Companies, Kolkata is directed to publish the order in the Official Gazette under his office name and seal;



- f) This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of Registrar of Companies, Kolkata to take appropriate action(s) in accordance with law, for any other violations / offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off.
6. The Company Petition being **C.P. No. 249/KB/2022** is disposed of accordingly.
7. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Ld. Authorized Representative.
8. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

P. Mohan Raj
Member (Judicial)

Signed on this the 28th day of September, 2022