

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal(AT) No. 45 of 2019**

**IN THE MATTER OF:**

**Mercury Cranes & Hoists Ltd.**

**...Appellant**

**Vs**

**Registrar of Companies**

**....Respondent**

**Present:**

**For Appellant: Mr. Rishi Sood and Mr. Ashish Singh, Advocates**

**For Respondents:**

**ORDER**

**22.02.2019** The applicants Mr. Pradip Kumar Chakravarty and Ms. Madhu Shree Chakravarty filed application under Section 252 of the Companies Act, 2013 in relation to striking off the name of the Company with effect from 07.06.2017 passed by Respondent under the provision of Section 248 of the Companies Act, 2013. National Company Law Tribunal, New Delhi Bench-III (hereinafter referred to as "Tribunal") has taken into consideration the submissions made on behalf of the Appellant that the company was functioning during the period when the name of the Company was struck off from the register of the Companies. However, the Tribunal observed that mere functioning of the Company during the period will not absolve the Company from filing the necessary returns and documents and adhering to the provisions of Companies Act, 2013, which they were required to file. Therefore, conditional order of restoration of name of the Company was passed as under:

*"(a) Within a period of 15 days from the restoration of the Appellant Company's name in the register being maintained by*

*the RoC, the Appellant will file interalia its annual returns and balance sheets as well other compliances statutorily required to be made under the Companies Act, 2013 for the period from which there has been default with requisite charges/fees as well as additional fee/late charges.*

*(b) That the Appellant Company out of its funds, set apart a sum of Rs. 2,00,000/- and deposit the same with the Respondent/RoC to defray the cost and expenses as well as towards filing any additional fee in filing the returns and documents which has been failed to be filed leading to its name being struck off from the Register of Companies within a period of one month from the date of this order. In case of any amount payable in excess of the sum specified towards defraying the cost incurred by the Respondent/ROC and towards other amounts as are required to be paid by the company statutorily the same shall be remitted by the Company.*

*(c) Till all compliances are made by the Appellant Company, the Appellant Company shall not alienate or dispose of any its valuable assets.*

*(d) It is further observed that by virtue of this order of restoration of the name of Appellant/Appellant Company in the register it will not entitled the directors of the Company whose names have been disqualified by virtue of provisions of Section 164 of the Companies Act, 203 by the Respondent/RoC to the automatically restored to directorship except in accordance with law.*

*(e) An affidavit of compliance of the aforesaid directions shall be filed by the Appellant Company within a period of 2 months from the date of this order.*

*(f) Further this order allowing the appeal shall also not circumscribe the power of the Respondent to proceed against the Appellant Company and its directors as mandated for alleged late filing of any forms, documents, returns and such other compliance under the provisions of Companies Act, 2013.*

The Appeal is disposed of accordingly.”

Learned Counsel appearing on behalf of the Appellant submits that the Appellant is aggrieved of the cost imposed on it. However, we are not inclined to interfere with the imposition of cost of Rs. 2 lacs imposed by the Tribunal as the same has been imposed towards expenses incurred by the Registrar of Companies.

In absence of any merit the appeal is dismissed. However, the delay is condoned. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

Akc/Sk