

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 418 of 2017

[Arising out of Order dated 7th December, 2017 passed by the National Company Law Tribunal, New Delhi Bench, New Delhi in CP 269(ND)/2017]

IN THE MATTER OF :

**M/s. Raxon Technologies Private Limited,
Registered Office at :
R-106, Gali No. 5,
East Vinod Nagar,
Delhi – 110 091.**

... Appellant

Versus

**Registrar of Companies,
NCT of Delhi & Haryana,
IFCI Tower,
61, Nehru Place,
New Delhi.**

... Respondent

Present: Shri Ritwiz Rishabh, Advocate for the Appellant.

Ms. Aparna Mudiam, Assistant Registrar of Companies.

J U D G E M E N T

30.01.2018 Heard learned counsel for the appellant and the representative of the Registrar of Companies. Perused the impugned order.

2. The impugned order shows that the appellant company, whose name was struck-off, had filed appeal to National Company Law Tribunal, New Delhi Bench (hereinafter referred to as 'NCLT') under Section 252(3) of the Companies Act, 2013 impugning the decision of the Registrar of Companies (ROC) to strike-off the name of the appellant company. It appears that the matter was adjourned to 21st November, 2017 but subsequently the date was changed to 10th November, 2017 and on that day, the NCLT issued notice to

the Income Tax Department. When the matter came up on the adjourned date, the learned counsel for the appellant stated before the NCLT that the appellant is not liable to serve notice to the Income Tax Department or invite their objections and that such steps were not envisaged under the Companies Act.

3. The learned NCLT consequently dismissed the appeal. Thus, the present appeal has been carried to this Tribunal.

4. Learned counsel for the appellant submits that there was misunderstanding and the appellant is ready to get notice served on the Income Tax Department. Learned counsel submits that the appellant had tried to show to the learned NCLT that the appellant had filed proper returns and thus the notice to the Income Tax Department was not necessary but the submission was misunderstood. He submits that on 3rd January, 2018 also the appellant had made submission before this Tribunal that they are ready to serve notice on the Income Tax Department and their request is to restore the appeal which was before the NCLT.

5. The document at Page 79 of the present appeal appears to be reply of ROC which was filed in the NCLT. It appears from para 7 of that document that the ROC had considered replies from the Company / Directors and objection received from the Income Tax Department. Thus views of Income Tax Department were a consideration.

6. The impugned order shows that the NCLT was conscious of the Government taking steps with reference to the Shell Companies. Thus, if NCLT directed Notice to Income Tax Department, it should have been accepted by Appellant.

7. We find that there was no justification for the appellant to take the adamant stand as appearing from the impugned order. However, in order not to deprive the appellant of an opportunity, we proceed to interfere with the impugned order which has been passed but will saddle the appellant with costs.

8. For the reasons mentioned above, the appeal is allowed. The impugned order is set aside and appeal before NCLT is restored subject to the appellant depositing costs of Rs. 1 Lakh to State in the NCLT. The costs may be deposited on or before 5th March, 2018 in the NCLT in which case the appeal to NCLT would stand restored. If the costs are not paid within time as specified, the present appeal shall be treated as dismissed.

[Justice A.I.S. Cheema]
Member (Judicial)

[Balvinder Singh]
Member (Technical)