

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal(AT) No. 93 of 2018

IN THE MATTER OF:

Global Skills Training Centre Pvt. Ltd.

...Appellant

Vs

Registrar of Companies, Kerala & Lakshadweep

....Respondent

Present:

For Appellant: Mr. Asish Mohan, Advocate and Mr. Bijoy P Pulipra, Company Secretary

For Respondents: ROC, Kerala.

ORDER

26.04.2018 The Appellant has challenged the order dated 15.01.2018 passed by National Company Law Tribunal, Chennai (hereinafter referred to as 'Tribunal') in CP/228/2017 whereby and whereunder, the application preferred by the Appellant under Section 252 of the Companies Act, 2013 has been rejected with the following observations:

“Representative for the Applicant present and submitted that the name of the Company has been struck off from the Register of the Companies due to non-filing of the Annual Return and Balance Sheet from the date of its incorporation till date today. The Company has been incorporated in the year 2011 and for long six years no papers have been filed with the RoC. The objections have been filed by the Counsel for RoC.

Perused the Application. The Applicant Company is not carrying on any business and has not made compliance with the Companies Act right from its incorporation. The Petition is devoid of merits. Therefore, the Petition stands rejected.”

Learned Counsel for the Appellant submits that the impugned order is non-speaking order and has been passed by the Tribunal on mere presumptions and conjectures. The Appellant Company was not carrying the business was the reason for which its name was struck off. The application under Section 252 of the Companies Act, 2013 was filed to revive the Company in view of Scheme of the Central Government. According to him, no application can be rejected on the ground that it was not functioning for few years without going on the merit and the reason for non-functioning. It is only in such circumstances, restoration of the name of the Company is filed under Section 252 of the Companies Act, 2013.

In spite of notice, the Registrar of Companies, Kerala & Lakshadweep has not appeared. We find that the impugned order is non-speaking order as the Tribunal has not decided the question as to whether in the facts and circumstances of the case, the Application under Section 252 of the Companies Act, 2013 was to be allowed or not. From the impugned order it is clear that even Registrar of Companies, Kerala & Lakshadweep was neither heard nor issued notice and the impugned order was passed.

For the reasons aforesaid, we set aside the impugned order 15.01.2018 passed by the Tribunal and remit back Company Petition no. CP/228/2017 to the Tribunal, Chennai with a direction to call for report from the Registrar of Companies, Kerala & Lakshadweep, if not yet received and decide the case on merit after notice.

In the meantime, it will be open to the Appellant to file an application to avail benefit from the scheme of the Central Government by filing application in

the prescribed format and within time with clear stipulation that they have prayed to allow the benefit of the scheme, if the name of company is restored.

The Appeal is allowed with aforesaid observations and directions. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/gc