

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

**Company Appeal (AT) No. 19 of 2019**

**IN THE MATTER OF:**

**Mahesh Kumar, Director**  
**(M/s. Falcon Jersy (P) Ltd.**

**...Appellant**

**Versus**

**The Income-Tax Officer,**  
**Ward 9(1) & Ors.**

**...Respondents**

**Present: For Appellant : Mr. Mahesh Kumar, C.A.**

**O R D E R**

**21.01.2019** Income-tax Officer, Ward No. 9(1) filed an application under Section 252 of the Companies Act, 2013 for restoration of the name of the company i.e. 'M/s. Falcon Jersey Pvt. Ltd.' which was struck off by the Registrar of Companies, NCT of Delhi and Haryana because the assessment proceedings of the respondent company for the Assessment Year 2012-13 was pending.

2. The National Company Law Tribunal, New Delhi Bench (hereinafter referred to as the '**Tribunal**') taking into consideration the facts of the case and after notice to the parties including the appellant – Mr. Mahesh Kumar, Director of 'M/s. Falcon Jersey Pvt. Ltd.' allowed the application and restored the name of the company. The Notification dated 30<sup>th</sup> June, 2017, insofar as the striking off the name of the company 'M/s. Falcon Jersey Pvt. Ltd.' has been set aside and the name of the company has restored to the Register of the Registrar of Companies.

3. Mr. Mahesh Kumar, Director appeared in person and submitted that the Principal Commissioner of Income-Tax, New Delhi have passed order under Section 263 of the Income-Tax Act on 15<sup>th</sup> March, 2017. It is submitted that the

required assessment was not made by the Income Tax Officer but specific assessment after examination of the case selected for scrutiny assessment from the record without proper enquiry made by the Principal Commissioner of the Income Tax. Hence Mr. Sunil Kumar, who filed the affidavit and verified, was not entitled to file the affidavit before the Tribunal. However, such submission cannot be accepted in view of 'NCLT Rules' as per which any person authorised by competent authority is entitled to file application and as it is not disputed Mr. Sunil Kumar was authorised to file the application.

4. It was next contended that the provisions of the Income Tax has not been violated and Section 263 of the Income Tax which deals with the powers given to the Commissioner of Income Tax to ask for and check the record of the proceedings has not been followed. However, as we are not competent to decide the question of legality and propriety of any order passed by competent authority under the Income Tax Act, we refrain from making any observation with regard to the same. Further, as we find no cause of action made out by Mr. Mahesh Kumar, Director, who has preferred the appeal in his personal capacity and not on behalf of 'M/s. Falcon Jersey Pvt. Ltd.', no relief can be granted to the appellant.

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

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansilal Bhat ]  
Member (Judicial)

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