

(2012) 08 MAD CK 0163
In the Madras High Court
Case No : C.P. No. 31 of 2012

Dasaprakash P. Ltd.

APPELLANT

Vs

Registrar of Companies

RESPONDENT

Date of Decision : 03-08-2012

Acts Referred:

Companies Act, 1956 — Section 560, 560(6)

Citation : (2012) 175 CompCas 248

Hon'ble Judges : P.R. Shivakumar, J

Bench : Single Bench

Advocate : Rajeni Ramadass, for the Appellant; O.V. Krishnan, Central Government Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

P.R. Shivakumar, J.—This petition has been filed u/s 560(6) of the Companies Act, 1956, for the restoration of the name of the petitioner-company, which was struck off from the Register of Companies with effect from September 13, 2000. Taking note of the fact that while a large number of companies had been registered, but due to various reasons some of them had failed to take off and the promoters of such companies had been requesting the Government to strike off the name of such companies by adopting an easy to follow method in a time bound manner, the Government of India, Ministry of Corporate Affairs thought it fit to launch a Fast Track Scheme enabling such non-starter companies and also the other companies, who want to exit the corporate form of business, without going through the protracted process of voluntary winding up, by getting their names removed from the Register of Companies by submitting the prescribed form with requisite fee. The scheme was put in operation for a limited period of sixty days. The petitioner-company wanted to avail of the benefit conferred under the Scheme and accordingly, it approached for its name being struck off by submitting necessary forms. Based on the same, the name of the petitioner-company was struck off from the Register of Companies with effect from

September 13, 2000.

2. After a lapse of nearly 12 years, the petitioner-company has come forward with the present petition u/s 560(6) of the Companies Act, 1956, for the restoration of its name to the Register of Companies on the ground that though the name of the company was struck off, all along the company was doing business and regular meetings contemplated under the statute were held and that the application for restoration of the name has been filed within 20 years, the period prescribed in sub-section (6) of section 560 of the Companies Act, 1956.

3. I have heard the arguments made by Ms. Rajeni Ramadass, learned counsel for the petitioner and by Mr. O.V. Krishnan, learned Central Government Standing Counsel for the respondent. This court also perused the petition and connected materials on record.

4. Of course it is true that section 560(6) of the Companies Act, 1956, provides for the restoration of the name of the company, which has been removed from the Register of Companies under sub-section (5) of section 560, if an application for the restoration of the name of the company to the Register of Companies is made by a company or any member or creditor thereof and if such an applicant feels aggrieved by the removal of the name of the company from the Register. The said provision is intended for benefiting the company, any member of the company or a creditor of the company, if the company or the member or the creditor thereof, as the case may be, who applies for the restoration, feels aggrieved by the removal of the name of the company from the Register.

5. The scheme under which the petitioner-company got its name removed from the Register of Companies was intended to enable the companies, who did not take off after incorporation and the companies that wanted to exit the corporate form of business without undergoing the protracted process of voluntary winding up. The fact of such removal of the name of the company, who volunteered for the removal of its name from the register, under the above said scheme, shall have the effect of causing dissolution of the company without undergoing the process of winding up. It shall have the effect of putting an end to the juristic personality of corporate entity. The present company petition has been filed by the company, which volunteered to have its name struck off from the Register of Companies. When such is the case, the company cannot be heard to say that the company is aggrieved by the striking off of the name of the company from the Register of Companies.

6. Sub-section (6) of section 560 of the Companies Act, 1956, provides for restoration of the name of the company on a petition being presented by the company or a member or a creditor thereof, if such petitioner feels aggrieved by the order of the Registrar removing the name of the company from the Register. The company, having volunteered for the removal of its name from the Register, cannot be said to be an aggrieved person for seeking restoration of its name to

the Register of Companies.

7. Learned counsel for the petitioner is not in a position to show any clause in the Scheme providing an option for a company, which got its name struck off from the Register of Companies availing the scheme, to get its name restored to the Register under sub-section (6) of section 560 of the Companies Act, 1956. The benefit of sub-section (6) of section 560 of the Companies Act, 1956, for getting the name of the company restored to the Register of Companies after having been struck off from the Register of companies as a penal measure, shall not be available to a company, who has volunteered for the removal of its name from the Register of Companies under the Scheme floated in 2000. Hence this court comes to the conclusion that the present company petition u/s 560(6) of the Companies Act, 1956, by the petitioner-company deserves to be dismissed. Accordingly, the company petition is dismissed.