
(2021) 08 NCLT CK 0011
In the National Company Law Tribunal
Case No : CP No. 89/CB/2021

Mt. Surendra Nath Dash

APPELLANT

Vs

Registrar Of Companies

RESPONDENT

Date of Decision : 05-08-2021

Acts Referred:

Companies Act, 2013 — Section 252(3)

Citation : (2021) 08 NCLT CK 0011

Hon'ble Judges : Rajasekhar V. K, Member (J); Satya Rarrjan Prasad, Member (T)

Bench : Division Bench

Advocate : Soumya Sujit Mishra, A. K. Sethi

Final Decision : Disposed Of

Judgement

Rajasekhar V.K, Member (Judicial)

1. This Company Petition has been filed by one of the Director of M/s. INTERLINK PRIVATE LIMITE uDnder section 252(3) of the

Companies Act, 2013 for restoration of name of the struck off company in the register of companies, maintained in the office of the Registrar or

Companies, Cuttack. It is stated that the name of the Company was struck off on 21st June, 2017.

2. It is contended that the Company had not filed the Financial Statements for the financial years ended 31st March 2012, 2013, 2014, 201 5,

201 6, 2017, 2018, 2019, 2020, and Annual Returns of the Company for the financial years ended 31st March 2012, 2013, 2014, 2015, 2016, 2017,

2018, 2019, and 2020. The petitioner avers that the accounts were properly prepared and audited by the statutory auditors in time. All the Balance

sheets along with all its repons were duly adopted in the Annual General

Meetings held every year in time. The company was ignorant of the fact that the Annual Accounts are not filed with the Registrar of Companies since Balance sheets were duly prepared. The ROC annual filing was assigned to audit professionals who audited the accounts, filed Income Tax Returns but could not file Annual returns with Registrar of Companies in time.

3. It is further contended that the Company has Reserves & Surplus amounting to 12,680,017.00, Current Liabilities amounting to 12,69,491.00 and

Trade payable of 141,69,70,822.00 in the financial year ending 31/03/2012 and for the year 31/03/2020 the reserve and surplus was 120,41,019.00,

current liabilities was 14,95,491 .00 and trade payable was 137,26,73,700.00. It would be unfair to the Creditors and the Company if the company is

struck- off and the Creditors do not receive their dues. Upon the said contentions, the Authorized Representative for the Petitioner prayed for passing of an order for restoration of the name of the appellant company.

4. Notices were issued to the Registrar of Companies, Odisha. The Registrar of Companies, Odisha has submitted a report. It was stated in the report

that only after compliance of the requirements to be met under Section 248 of the Companies Act, 2013, Registrar of Companies, Odisha has struck

off the name of the company from the register.

5. ROC Cuttack has not objected to this application for restoration of the name of the company. On perusal of the application, we are satisfied that the

name of the company should be restored to the register. Therefore, this petition deserves sympathetic consideration. Accordingly, the present petition

is allowed on the following terms: -

a) The Registrar of Companies, Odisha, the respondent herein, is directed to restore the original status of the petitioner company as if the name of the Company had

not been struck off from the register of Companies with the resultant and consequential actions like changing status of petitioner company from "struck off" to

"Active".

b) The Petitioner Company is directed to file all pending statutory document(s) including Annual Accounts and Annual returns for the period 9 years along with

prescribed fees/additional fee/fine as decided by Registrar of Companies, Odisha

within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, Odisha.

c) The restoration of the Company's name is also subject to the payment of cost of 190,000/- (Rupees Ninety Thousand only) through online payment in www.mca.Nov.in under miscellaneous fee by mentioning particulars as Payment of cost for restoration of company pursuant to orders of NCLT in CP No. 89/CB/2021.

d) The petitioner is directed to deliver a certified copy of this order with Registrar of Companies, Odisha within thirty days of the receipt of this order.

e) On such delivery and after due compliance with the above directions, the Registrar of Companies, Odisha is directed to publish the order in the Official Gazette

under his office name and seal;

f) This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of Registrar of Companies, Odisha to take appropriate action(s) in accordance with law, for any other violations / offences, if any, committed by the petitioner company

prior to or during the period the name of the Company remained struck off.

6. The CP No. 89/CB/2021 is disposed of accordingly.

7. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

8. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.