
(2013) 10 KAR CK 0006
In the Karnataka High Court
Case No : Company Petition No. 122 of 2013

Prashanth Surface Coating Private Limited	APPELLANT
Vs	
Registrar of Companies	RESPONDENT

Date of Decision : 29-10-2013

Acts Referred:

Companies Act, 1956 — Section 159, 220, 560

Citation : (2013) 10 KAR CK 0006

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : Kashyap N. Naik, for the Appellant; Sowbhagya N.A., Central Government Counsel for ROC, for the Respondent

Final Decision : Disposed Off

Judgement

Anand Byrareddy, J.—Heard the learned counsel for the petitioner and the learned counsel for the respondent. The petitioner - company was said to have been incorporated in the year 1996 with the object of carrying on business in surface coating. It transpires that the business of the company was mainly looked after by one Director Shri Ravi V. Shetty, who was also responsible for maintaining the Books of Accounts and other statutory registers. However, he had unfortunately died in the year 2009 and since then, the business of the company was managed by other Directors and since the management was indifferent in attending to the day-to-day affairs of the company, it transpires that it was treated as a defunct company and it was struck off the Register of companies and it is only recently that there has been some revival of the business of the company, in funds having been infused and Directors have evinced interest in resuming the business of the company and it is in that background the present petition is filed seeking direction from the Registrar of Companies to revive the name of the company in the register.

2. The notice having been issued to the respondent, statement of objections are filed to declare that from the records of the respondent's office, the petitioner -

company and its Directors had made an application for striking off the name of the company under the Simplified Exit scheme 2005, and an application was made as on 30.06.2005. Therefore, it was on the basis of the said application u/s 560 of the Companies Act, 1956 (hereinafter referred to as "the Act", for brevity) that the company's name was struck off from the register and also gazetted as on 2.2.2008. It is a mandatory requirement u/s 560 of the Act, that a company seeking for striking off its name should not be in operation and should not have any assets and liabilities. Therefore, it could not have carried on any business thereafter. Hence, restoration of the name of such a company which is not in operation with nil assets and liabilities, is inexplicable. But however, it is stated that in the event that this court should decide to direct restoration of the name of the petitioner - company, the respondent could have no objection in case the company which seeks to revive its business, files its annual returns u/s 159 and Balance sheet u/s 220 of the Act from the financial year from 2005 to 2012 with such fees and charges as required under law. Therefore, in view of the above circumstances and on a declaration by the petitioner - company that it genuinely seeks to restart its business, the respondent is directed to restore the name of the petitioner - company subject to the petitioner - company filing all statutory documents as required by law, and on completion of all other formalities including payment of any late fee and other charges leviable by the respondent in respect of such statutory returns. The petitioner - company shall therefore file and comply with all such requirements within three weeks from the receipt of a copy of this order. Petition stands disposed of in terms as above.