(2021) 02 NCLT CK 0080

In the National Company Law Tribunal

Case No : Company Petition No. 1433/252(1)/MB Of 2020

Rajiv Kumar APPELLANT

Vs

RoC Mumbai RESPONDENT

Date of Decision : 24-02-2021

Acts Referred:

Companies (Removal Of Names Of Companies From The Register Of Companies) Rules, 2016 — Rule 3
Companies Act, 2013 — Section 248(1), 248(4)(1), 252

Citation : (2021) 02 NCLT CK 0080

Hon'ble Judges : Suchitra Kanuparthi, J;Rajesh Sharma, Member (Technical)

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The Court is convened through Video Conference.

2. Mr. Rajiv Kumar, Ld. Counsel appeared on behalf of the Petitioner Company.

3. This Company Petition is filed by Mr. Rajiv Kumar, Shareholder &Director, on behalf of Indrayani Credit Capital Private Limited, [CIN: U99999MH1997PTC105043] under section 252 of the Companies Act, 2013 praying for restoration of the name of the Company to the Register of Companies maintained by the Registrar of Companies, Mumbai.

4. The Petitioner submits that the company was incorporated on 13.01.1997 under the Companies Act, 1956 as a private company limited by shares with the Registrar of Companies, Maharashtra, Mumbai.

5. The grievance of the Petitioner Company is that the Respondent Registrar of Companies, Maharashtra, Mumbai struck off the name of the Petitioner Company from the Register of Companies maintained by them by issuing notice in Form STK-1, STK-5 and STK-7 under section 248(4)(1) for removal of the name of the Company from the Register of Companies under section 248(1) of the Companies Act, 2013 and rule 3 of the Companies (Removal of Names of Companies from

the Register of Companies) Rules, 2016 due to defaults in statutory compliances, namely, failure to file Financial Statements and Annual Returns and failure to do business for two years.

6. The Petitioner Company submits that the Company has been functioning since its incorporation. The Petitioner Company further submits that the Company has failed to file its Financial Statements and Annual Returns for Financial Year 2006-07 to 2015-16, due to inadvertence.

7. The Petitioner Company has enclosed the Audited Accounts for the Financial Years 2006-07 to 2015-16.The Petitioner Company has enclosed copies of the Acknowledgement of Income-Tax Returns for Assessment Year 2015-16 filed with the Income-Tax Authorities.

8. The Respondent has filed his report and reiterates that the name of the Company was struck off, as the company was not carrying on any business or operation for a period of immediately preceding two years.

9. On hearing the submissions of the Learned Authorised Representative appearing on behalf of Petitioner and on perusal of the Report of Registrar of Companies, Maharashtra, Mumbai, the Audited Accounts submitted by the Petitioner Company and other documents placed on record, the Bench observes that it would be just, equitable and in the interest of justice to provide an opportunity to the company to rectify its defaults and continue the business.

10. Given the above facts and circumstances, we are satisfied that the prayer sought by the Petitioner company deserves to be allowed.

11. Accordingly, Company Petition Bearing CP No.1433/252/MB- IV/2020filed by the Petitioner, INDRAYANI CREDIT CAPITAL PRIVATE LIMITED, represented by its Shareholder/Director, Mr. Rajiv Kumar, under section 252 of the Companies Act, 2013, seeking restoration of the Company's name in the Register of Companies maintained by the Registrar of Companies, Maharashtra, Mumbai is allowed on the following terms: -

(a) The Respondent Registrar of Companies, Maharashtra, Mumbai, is directed to restore the name of the Petitioner Company, viz., Indrayani Credit Capital Private Limited, to the Register of Companies subject to payment of a sum of Rs.2,00,000/- (Two Lakh Only)as cost 'to be paid online through Bharat Kosh in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai"' within thirty days from the date of receipt of a copy of this Order; and

(b) Upon such restoration, the Petitioner Company shall file all its pending financial statements and Annual Returns with all the applicable fees and late fees with the Respondent Registrar of Companies within thirty days from the date on which the name of the Company is restored to the Register;

failing which, this order will stand vacated automatically.

12. Upon restoration of the name of the Petitioner Company to the Register of

Companies after complying with the terms mentioned above, the Registrar of Companies, Maharashtra, Mumbai, shall issue appropriate communications to the bank authorities for defreezing the accounts of the Petitioner Company.