

(2021) 03 DEL CK 0245

In the Delhi High Court

Case No : Civil Writ Petition No. 3730 Of 2021

Ravindra Kumar Mishra & Ors

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 22-03-2021

Acts Referred:

Companies Act, 2013 — Section 164(2)(a)
Companies Act, 2013 — Section 252

Citation : (2021) 03 DEL CK 0245

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Bhawna Piplani, Saroj Bidawat

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

CM APPL.11271/2021 (for exemption)

1. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 3730/2021 & CM APPL.11270/2021 (for stay)

2. The Petitioners are Directors in the companies as listed below in the following tables.

i. Petitioner No. 1 is a Director in the following companies:

CIN/FCRN

Company/LLP

Name

Date of

Directorship

Status

U45204DL2011PTC215365

ARK STRUCTURAL TECHNOLOGIES

PRIVATE LIMITED

08-03-2011

STRIKE-OFF

U45201UP2013PTC061524

SARAN ENTERPRISES PRIVATE

LIMITED

26-12-2013

STRIKE-OFF

U70102DL2014PTC272972

SARAN PROMOTERS AND

DEVELOPERS PRIVATE LIMITED

07-11-2014

STRIKE-OFF

U36900DL2013PTC249834

SSPK BUSINESS SOLUTIONS PRIVATE LIMITED

26/03/2013

STRIKE-OFF

ii. Petitioner No. 2 is a Director in the following companies:

CIN/FCRN

Company/LLP Name

Date of Directorship

Status

U45204DL2011PTC215365

ARK STRUCTURAL TECHNOLOGIES PRIVATE

LIMITED

08-03-2011

STRIKE-OFF

U45201UP2013PTC061524

SARAN ENTERPRISES PRIVATE

LIMITED

26-12-2013

STRIKE-OFF

U70102DL2014PTC272972

SARAN PROMOTERS AND DEVELOPERS PRIVATE

LIMITED

07-11-2014

STRIKE-OFF

iii. Petitioner No. 3 is a Director in the following company:

CIN/FCRN

Company/LLP Name

Date of Directorship

Status

U45204DL2011PTC215365

ARK STRUCTURAL TECHNOLOGIES PRIVATE

LIMITED

08-03-2011

STRIKE-OFF

3. M/s. ARK Structural Technologies Private Limited was struck off from the Register of Companies due to non-filing of balance sheets and annual returns. The said company had approached the National Company Law Tribunal (hereinafter "NCLT") and vide order dated 23rd December, 2020 by the NCLT, the company has been restored in the following terms:

"11. In view of the above, the Appeal is allowed subject to payment of cost of Rs.25,000/-(Twenty-Five Thousand only) to the credit of Ministry of Corporate Affairs (Registrar of Companies, Delhi & Haryana), the proof of which will be furnished by the Appellant to the Registry of this Tribunal within 15 days of this order. The Registrar of this Tribunal shall maintain the information about such deposits in a separate E-register.

12. The restoration of the Appellant Company's name in the Register will be subject to their filing of all outstanding financial statements for the defaulting

years as required by law and completion of all formalities including payment of any late fee or other charges, which are leviable by the RoC for the late filing of statutory returns. Compliance of this order for restoration shall be made by the RoC with all its consequential effects within one week of all compliances made by the Appellant. The name of the Appellant Company shall then stand restored in the Register of the Registrar of Companies (RoC), as if its name of the Company had not been struck off."

4. Ld. Counsel for the Petitioner submits that the Petitioner wishes to file the compliances in respect of this company and prays that the disqualification of the Petitioners under Section 164(2)(a) of the Companies Act, 2013 may be set aside.

5. In view of the fact that restoration of the company has taken place on 23rd December, 2020 already, the company would be entitled to avail of the Condonation of Delay Scheme for Companies restored by NCLT between 1st December, 2020 to 31st December, 2020 under Section 252 of the Companies Act, 2013 and file all the requisite documents of compliances. The said Scheme was brought about on 15th January by the Ministry of Corporate Affairs vide General Circular No. 03/2021, and has been in operation since 1st February, 2021 and will be available for filing of over-due returns of companies till 31st March, 2021.

6. Considering the fact that the NCLT has already restored the company, the disqualification of the Petitioners is set aside and the Petitioners' DINs/DSCs are directed to be re-activated within a period of one week from the date when the present order is communicated by email to the Registrar of Companies by the Petitioner.

7. The petition along with all pending applications is disposed of in the above terms.