(2023) 10 NCLT CK 0041

In the National Company Law Tribunal

Case No : Company Petition No. 226 Of 2023 I.A. No. 166/KB/2023

Sanjib Pal Vs Hailth Private Limited ?

Date of Decision : 16-10-2023

Acts Referred:
Companies Act, 2013 — Section 96, 97(1), 101
National Company Law Tribunal Rules, 2016 — Rule 11, 74

Citation : (2023) 10 NCLT CK 0041

Hon'ble Judges : Bidisha Banerjee, Member (J);Arvind Devanathan, Member (T)

Bench : Division Bench

Advocate : Sneha Khaitan, Mohan Ram Goenka

Final Decision : Disposed Of

Judgement

Arvind Devanathan: Member (Technical)

1. The court convened physical mode.

2. The present Company Petition has been filed by member/ shareholder Mr. Sanjib Pal s/o. Abani Pal (holding 980 shares), representing 98% of the total issued, subscribed and paid- up share capital of the Respondent Company under section 97(1) of the Companies Act, 2013 read with rules 11 and 74 of the NCLT Rules, 2016 praying for calling of the Annual General Meeting of the respondent company for the Financial Years ended 31.03.2021 (covering the period from 18.03.2020 to 31.03.2021), 31.03.2022 and 31.03.2023.

3. The Respondent Company, HAILTH PRIVATE LIMITED was incorporated on 18th March 2020 under the Companies Act, 2013. There are Two shareholders in the respondent Company as on the date of incorporation.

4. The Respondent Company was not able to conduct Annual General Meeting since its incorporation firstly due to deadly wave of worldwide pandemic situation caused by COVID 19 in 2020 as well as 2021 and secondly due to the fact that the Respondent Company had been struck off as per the aforesaid Notices, due to non-filing of declaration by a director in Form INC-20A for Commencement of Business within a period of one hundred and eighty days of the date of

incorporation of the company with the Registrar of Companies.

5. The Petitioner approached the Respondent Company for holding the Annual General Meeting for the financial year ended 31.03.2021 (covering the period from 18.03.2020 to 31.03.2021) 31.03.2022 and 31.03.2023.

6. The Authorised Representative for the petitioner states that the respondent company was struck off by the Registrar of Companies on 07.11.2022 and was later revived in pursuance of the order dated 26.06.2023 passed by this Tribunal in C.P. No. 164/KB/2023. (Pg-39 to 42)

7. In terms of Rule 74 of the National Company Law Tribunal Rules, 2016, the present petition had been filed on 24.07.2023 and the notice was served on the Registrar of Companies, West Bengal, Kolkata. The Registrar of Companies, West Bengal has duly filed his report dated 27.09.2023 read with report dated 08.08.2023.

8. Ld. Counsel appearing for the respondent company submits that due to striking of the name of the respondent company from the Register of Companies, the respondent company could not file statutory returns and the same are now ready and they have no objection to hold AGM.

9. We have heard the Ld. Authorised Representative appearing for the petitioner and the Ld. Counsel appearing for the respondent company. We are satisfied that the failure of the Company to hold the AGM for the Financial Years that ended on 31.03.2021 (covering the period from 18.03.2020 to 31.03.2021), 31.03.2022 and 31.03.2023 within the stipulated time was not deliberate but only due to circumstances beyond their control. Also, there is no objection from any authorities towards extension of time for the purpose of holding AGM.

10. We, therefore, give the following directions in the exercise of the powers conferred on this tribunal under section 97 of the Companies Act,2013:

(a) A general meeting of the company be convened and held within 45 days from the date of this order to transact the ordinary business of approval and adoption of the Audited Financial Statements for the financial years from financial year ending on 31.03.2021 (covering the period from 18.03.2020 to 31.03.2021), 31.03.2022 and 31.03.2023.This meeting shall be deemed to be an AGM of the Company. The meeting shall be held by following various statutory protocols and advisories scrupulously.

(b) The quorum shall consist of at least one shareholder.

(c) Notice shall be issued to all the shareholders in accordance with section 101 of the Companies Act, 2013.

(d) Necessary filings with the RoC shall be made as per the stipulated time lines.

11. The C.P. No.226/KB/2023 connected with I.A. No. 166/KB/2023 shall be disposed of accordingly.

12. The Registry is directed to send copies of the Order forthwith to all the parties and their representative for information and for taking necessary steps.

13. Registry is also directed to send a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

14. Certified Copies of this order may be issued, if applied for, upon compliance of all requisite formalities.

