

(2020) 12 NCLT CK 0183

In the National Company Law Tribunal

Case No : Company Petition No. 1258/252(3)(MB) Of 2020

Sarah Heights Private Limited

APPELLANT

Vs

RoC Mumbai

RESPONDENT

Date of Decision : 02-12-2020

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), 248(5), 252, 252(3), 455

Citation : (2020) 12 NCLT CK 0183

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

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This court convened through video conferencing today. Mr. Kaushik Nahar, Practising Company Secretary appeared on behalf of the Company.

2. This Company Petition is filed by Sarah Heights Private Limited [CIN: U70102MH2009PTC192760], represented by its Applicant Mr. Satish

Raghunath Patil [DIN: 02142855], under section 252(3) 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.

3. The Petitioner submits that the company was incorporated on 27.05.2009 under the Companies Act, 1956 as a private company limited by shares

with the Registrar of Companies, Maharashtra, Mumbai. Its CIN is U70102MH2009PTC192760. The Petitioner company has been incorporated to

carry on the following objects:

â??To carry on the business of Builders, Masonry and general constructions and contractors, to buy, repair, or otherwise and proprietors

of lands, flats, marionettes, dwelling houses, shops, offices, industrial estates, lessees of lands and other immoveable-le properties and for

these purpose to purchase_, to take on lease or otherwise acquire and hold any lands or buildings of tenure or description wherever

situated or rights or interest therein or connected therewith, to prepare building sites and to construct, reconstruct, pull down, renovate,

develop' alter, improve, decorate, furnish and maintain flats, marionettes, etc.â??

4. 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 and STK-5 dated 15.05.2017 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 since incorporation and for not carrying on any business or operation for a period of

immediately preceding two years and neither made any application within such period for obtaining the status of â??Dormant Companyâ?? under

section 455 of the Companies Act, 2013.

5. Consequently, the Respondent ROC initiated the process under section 248(5) of the Companies Act, 2013 by issuing Public Notice in Form STK-7

Public Notice dated 28.07.2017 and informed the Petitioner Company that the name of the Company has been struck off from the Register of

Companies and the Company has been dissolved.

6. The Petitioner Company further submits that due to striking off the name of the Petitioner Company, the Director Identification Numbers (DIN) of

the directors of the Company have been deactivated.

7. 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 since incorporation due to inadvertence.

8. The Petitioner Company has enclosed the Audited Accounts for the Financial Years 2017-18 to 2019-20. The Petitioner Company has not enclosed

copies of the Acknowledgement of Income-Tax Returns filed with the Income-Tax

Authorities.

9. On perusal of the report of the Respondent, it appears that the name of the company was struck off due to failure on the part of the company to file

the statutory documents since incorporation and also for not carrying on the business.

10. Upon perusal of the Financial Statements of the Company, it is observed that the Petitioner Company has not generated Revenue. However, the

Petitioner Company has total Expenses of Rs. 5000.00, has total Current Assets of Rs.7,58,241.00, has Non- Current Liabilities of Rs.6,75,200.00 for

F.Y. 2016-17 & 2017-18. The Petitioner Company has Current Liabilities of Rs.40,000.00 and Rs.45,000.00 for F.Y. 2016-17 & 2017-18 respectively.

11. 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 the Petitioner Company has not generated Revenues. However, the Petitioner Company has Current Assets, Non-Current & Current

Liabilities in its Books of Accounts. Therefore, 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.

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

13. Accordingly, Company Petition bearing CP No.1258/252(3)/MB- IV/2020 filed by the Petitioner, Sarah Heights Private Limited [CIN:

U70102MH2009PTC192760], represented by its Applicant Mr. Satish Raghunath Patil [DIN: 02142855], 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., Satish Raghunath

Patil, CIN: U70102MH2009PTC19276] to the Register of Companies subject to payment of a sum of Rs.1,10,000/- (Rupees one lakh ten thousand

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.

14. 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.