

(2023) 02 NCLT CK 0029

In the National Company Law Tribunal

Case No : CP No. 336/KB/2022

Visualization Commercial Private Limited Vs Registrar Of Companies ?

Date of Decision : 07-02-2023

Acts Referred:

Companies Act, 2013 — Section 248, 252, 252(3)

Citation : (2023) 02 NCLT CK 0029

Hon'ble Judges : Bidisha Banerjee, Member (J); Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Tapas Kumar Das

Final Decision : Disposed Of

Judgement

Bidisha Banerjee, Member (Judicial)

1. This Company Petition has been filed by one of the Shareholders of Visualization Commercial Private Limited, u/s 252(3) of the Companies Act, 2013 for restoration of name of the Struck off company in the register of the Companies, maintained in the office of the Registrar of Companies, West Bengal. It is stated that the name of the company was struck off on 24.08.2018.

2. It is contended that the company has not filed the financial Statements for the financial years 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and Annual Returns of the Company for the financial years ended 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, due to default of statutory compliances and has now produced copies of the said financial statements.

3. It is further contended that the Company has Current Liabilities of Rs.11, 100.00 and has a Cash and Equivalents amounting to Rs. 3100.00 for the Financial year ended on 31.03.2021 and it will be unfair to creditors if the company remains struck-off. Upon the said contentions, the Ld. Counsel for the Petitioner prayed for passing of an order for restoration of the name of the appellant company.

4. Notices were issued to the Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal has submitted a report. It was stated in the report that only after the compliance of requirements to be met under Section 248 of the Companies Act, 2013, Registrar of Companies, West Bengal has struck off the name of the Company from the register.

5. The Registrar of Companies, west Bengal has not objected to this application for restoration of the name of the company. We feel that it is just that the name of the Company is restored. Accordingly, in exercise of the powers conferred on the Tribunal under Section 252 of the Companies Act, 2013, the petition is allowed on the following terms:

a) The Registrar of Companies, west Bengal, the respondent herein, is directed to restore the original status of the petitioner company as if the name of the Company had not been struck off from the register of Companies with the resultant and consequential actions like changing status of petitioner company from 'Struck off' to 'Active'.

b) The Petitioner Company is directed to file all pending statutory document(s) including Annual Accounts for the period of 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and Annual returns for the period 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 along with prescribed fees/ additional fee/fine as decided by Registrar of Companies, West Bengal within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, West Bengal.

c) The restoration of the Company's name is also subject to the payment of cost of Rs.70,000/- (Rupees Seventy Thousand Only) through online payment in www.mca.gov.in under miscellaneous fee by mentioning particulars as "Payment of cost for restoration of company pursuant to orders of NCLT in C.P. No. 336/KB/2022."

d) The petitioner is directed to deliver a certified copy of the order with Registrar of Companies, West Bengal within thirty days of the receipt of this order.

e) On such delivery and after due compliance with the above directions, the Registrar of Companies, West Bengal is directed to publish the order in the Official gazette under his office name and seal;

f) This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the company, and it will not come in the way of Registrar of Companies, west Bengal to take appropriate action(s) in accordance with the law, for any other violations/offences, if any, confirmed by the Appellant company prior to or during the period the name of the Company remained Struck off.

6. The C.P. No. 336/KB/2022 is disposed of accordingly.

7. The Registry is directed to send e-mail copies of the order forthwith to all the

parties inclusive of the counsel.

8. Urgent certified copies of this order, if applied for be issued upon compliance with all requisite formalities.