

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **COMPANY PETITION NO. 105/2010**

Date of decision: 20th October, 2010

M/s HOLLY INTERNATIONAL PRIVATE LTD. Petitioner
Through Mr. Pradeep K. Mittal,
Advocate.

VERSUS

REGISTRAR OF COMPANIES Respondent
Through Mr. Atma Sah, Assistant ROC.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

M/s. Holly International Private Limited has filed this petition under Section 560(6) of the Companies Act, 1956 (hereinafter referred to as the Act) to restore the name of the petitioner company in the register maintained by the Registrar of Companies. Name of the petitioner company was struck off from the Register of the Registrar of Companies, Delhi and Haryana vide notification published in the Gazette of India dated 26th April, 2008.

2. As per the reply filed by the Registrar of Companies, the petitioner company had not filed their annual returns, balance sheet and accounts for the financial year 2002-03 onwards and, therefore, proceedings under Section 560 of the Act were initiated. In the reply it is also stated that notices were issued to the petitioner company from time to time and when there was no response, an order under Section

560(5) of the Act was passed and published in the Gazette of India on 26th April, 2008.

3. The stand of the petitioner is that no show cause notice was served before initiating proceedings under Section 560 of the Act. The respondent has not filed on record any document to prove and show that any notice was issued and served on the petitioner. The petitioner, however, has not disputed and denied the fact that after the financial year 2002-03, annual returns, balance sheets and accounts were not filed with the Registrar of Companies.

4. The petitioner along with the petition has filed copy of the audited balance sheets for the financial years 2007-08 and 2008-09. The accounts show that the petitioner company is functioning and running, though the financial activity as per the income earned is minimal.

5. The petitioner has filed along with the petition 'no objection certificate' of shareholders and the directors of the petitioner company. The petitioner has also taken steps to get itself under the service tax and has filed copy of Form no.ST-II.

6. Keeping in view the aforesaid facts, the present petition is allowed and the petitioner name is directed to be restored in the Register subject to following conditions:-

- (i) Petitioner pay costs of Rs.1 lac to the Registrar of Companies within 30 days.
- (ii) Petitioner will file audited balance sheets for all the past years within a period of 30 days of restoration. The petitioner will pay

compounding charges for the delay and default in filing of the annual returns and balance sheets/accounts.

(iii) In case there is any change in authorized capital or paid up capital of the petitioner company, the petitioner will comply with the necessary formalities and will also pay necessary charges including compounding charges, if payable.

(iv) The petitioner will file an undertaking in this Court that in future they shall regularly file balance sheet/accounts and the annual return with the Registrar of Companies. The said undertaking will be filed within a period of four weeks from today.

The petition is accordingly disposed of.

SANJIV KHANNA, J.

OCTOBER 20, 2010

NA