

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **COMPANY PETITION 133/2010**

SHEFALI VERMA Petitioner
Through Mr. Suresh Kumar, Advocate.

versus

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

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

O R D E R

% **01.11.2010**

This petition under Section 560(6) of the Companies Act, 1956 (Act for short) is for restoration of the name of M/s. Tricon Controls Pvt. Ltd. in the register maintained by the Registrar of Companies. The name of the aforesaid company was struck off by the Registrar of Companies vide its order dated 31st May, 2007 and vide Gazette Notification dated 23rd June, 2007.

2. The Registrar of Companies in their reply has stated that the company M/s. Tricon Controls Pvt. Ltd. had defaulted in filing of its returns and balance sheets for the financial years ending 31st March, 2000 and thereafter. It is stated that notice under Section 560(5) of the Act was published in the "Official Gazette" on 23rd June, 2007 and thereafter the name of the petitioner company was struck off from the register maintained by the Registrar of Companies. It is also stated in the reply that Ms. Shefali Verma has filed the present petition stating that she is a Director of M/s. Tricon Controls Pvt. Ltd. but as per the records of the Registrar of Companies she is not the

Managing Director or a Director of the said company.

3. The petitioner has filed on record copy of the Form No.32 intimating the Registrar of Companies that Ms. Shefali Verma has been inducted as a Director on 3rd December, 1996 in place of Mr. R. Verma. The petitioner has also enclosed with the petition, 'no objection certificate' issued by Mr. Surender Verma the shareholder and other Director of M/s. Tricon Controls Pvt. Ltd. It is stated that there are no other shareholders or directors of the said company. The petitioner has alleged that the Registrar of Companies did not follow the procedure prescribed under Section 560(1)(2) & (3) of the Act as notices were not issued before taking action to delist and delete the name of M/s. Tricon Controls Pvt. Ltd. from the register maintained by the Registrar of Companies.

4. The respondent-Registrar of Companies has not placed on record any document to show that notices were sent and dispatched/served on Tricon Controls Pvt. Ltd., Shefali Verma and Surinder Verma. The Registrar of Companies has not filed any document to deny and controvert filing of Form No.32 regarding appointment of Ms. Shefali Verma as a Director.

5. Learned counsel for the petitioner has placed on record copy of the income tax returns and it is stated that the company M/s. Tricon Controls Pvt. Ltd. has been regularly filing their tax returns. However, it is accepted that there were defaults as annual returns and balance sheets of M/s. Tricon Controls Pvt. Ltd. were not filed with the Registrar of Companies with effect from year 2000 onwards.

6. Learned counsel for the petitioner submits that he has obtained instruction from the petitioner and the petitioner is ready

and willing to pay Rs.1 lac towards costs and expenses to the Registrar of Companies for the said defaults.

7. In view of the aforesaid facts, the present petition is allowed and the name of the M/s. Tricon Controls Pvt. Ltd. is directed to be restored in the register of companies maintained by the Registrar of Companies subject to the following conditions:-

(i) The petitioner will within a period of four weeks deposit Rs.1 lac with the Registrar of Companies on account of costs and expenses.

(ii) After four weeks of restoration of the company's name in the register maintained by the Registrar of Companies, the petitioner will file their annual returns and balance sheets of M/s. Tricon Controls Pvt. Ltd. for the period 1st April, 2000 onwards. The petitioner will also pay requisite charges/fee as well as late fee/charges.

(iii) The petitioner and the co-director Mr. Surinder Verma will file an affidavit in this Court that they shall in future comply with the provisions of the Act and file annual returns, balance sheet etc. with the Registrar of Companies within the stipulated time.

It is clarified that the Court has not expressed any opinion on whether the company M/s. Tricon Controls Pvt. Ltd. or their directors have committed any offence under the Act or whether the petitioner is entitled compounding of any offence.

Dasti.

SANJIV KHANNA, J.

NOVEMBER 01, 2010

NA/P