

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 06.12.2016
Judgment pronounced on: 17.02.2017

CO.PET. 507/2016

IN THE MATTER OF:-

SATYA PLYWOOD INDUSTRIES PRIVATE LIMITED Petitioner

Versus

THE REGISTRAR OF COMPANIES Respondent

Through: Mr. Satinder Singh Bawa,
Advocate for Petitioner.
Ms. Aparna Mudiam,
AROC.
Mr. Anil Panwar, CGSC

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J.

1. The present petition has been filed under Section 560(6) of the Companies Act, 1956 (hereinafter referred to as the 'Act') by Satya Plywood Industries Pvt. Ltd. (hereinafter referred to as the 'Petitioner Company') praying for restoration of the name of the Petitioner Company in the Register

of Companies maintained by the Registrar of Companies (hereinafter referred to as the 'Respondent').

2. The Petitioner Company was incorporated with the Registrar of Companies, N.C.T. of Delhi and Haryana, under the Act, vide certificate of incorporation dated 29.07.1987.

3. The registered office of the Petitioner Company is stated to be situated at 2873/1, Gali No.1, Bihari Colony, Shahdra, New Delhi-110032, within the jurisdiction of this Court.

4. The main objects of the Petitioner Company as stated in the Memorandum of Association are, *inter alia*, as follows:-

“i. To carry on the business of manufacturers, buyers, sellers, exporters, importers, suppliers, stockiest, agents, merchants, distributors, concessionaries of and dealers in all kinds of plywood flush doors, wood including furniture and fixtures and decorative wood and its allied products.”

5. The name of the Petitioner Company was struck off from the Register of Companies under Section 560 of the Act, by the Respondent, after issuing notification under Section 560(5) of the Act in the Official Gazette (for the week from 26.04.2008 to 02.05.2008). The name of the Petitioner Company was struck off by *suo moto* action of the Respondent, on account of failure of the Petitioner Company to file its statutory documents since the year 1995, as required to be filed under the mandate of the provisions of the Act.

6. In support of the prayer sought, learned counsel appearing on behalf of the Petitioner Company would make the following submissions:

- a) On 17.03.1997, the unit of the Petitioner Company at Ghaziabad, U.P was sealed by the U.P. Forest Department vide their order bearing number 14/6114-2-97 dated 6.3.1997, in compliance to the interim order dated 04.03.1997 rendered by the Hon'ble Supreme Court in Writ Petition (Civil) 202/1995, titled as '*T.N. Godavarman versus UOI and others*'.
- b) The Petitioner Company has been maintaining all its requisite documents as per the provisions of the Act, but owing to the said unavoidable circumstance of desealing of the said unit at Ghaziabad, the statutory records, required to be filed under the mandate of the provisions of the Act, could not be filed by the Petitioner Company in time with the Respondent,.
- c) In the year 2013, subsequent to the orders passed by Hon'ble High Court of Judicature at Allahabad in a Writ Petition bearing No. C/2025/2013 titled as "*M/s Satya Plywoods Industries Pvt. Ltd. & Anr. Vs. The State of U.P. & Ors.*", the said unit of the Petitioner Company situated at Ghaziabad, U.P was regularized by the U.P. Forest Department vide order bearing number 1487/22-18 dated 23.02.2013.

- d) The Petitioner Company discovered that the name of the Petitioner Company has been struck off under Section 560(5) of the Act by the Respondent, only recently, upon approaching the Respondent in order to file its said statutory records from the year 1996 onwards.
- e) The name of the Petitioner Company was struck off from the Register of Companies maintained by the Respondent without issuing notices to the Petitioner Company under Section 560(1), Section 560(2) and Section 560(3) of the Act, which are required to be issued under the mandate of the provisions of the Act. Consequently, the Petitioner Company was not afforded an opportunity for a hearing before striking off its name from the Register of Companies maintained by the Respondent.
- f) The Petitioner Company, at the time of striking off its name from the Register of Companies maintained by the Respondent, was carrying on business and was operational.

7. The Board of Directors of the Petitioner Company have unanimously passed a resolution dated 15.04.2016 seeking revival of the Petitioner Company. A copy of the said resolution dated 15.04.2016 has been placed on record.

8. It has been stated by learned counsel appearing on behalf of the Petitioner Company that the present petition is within the period of limitation stipulated by Section 560(6) of Act.

9. Notice in the present petition was issued to the Respondent by way of order dated 01.06.2016. Pursuant to the issuance of notice, reply dated 26.08.2016 on behalf of the Respondent has been filed, wherein no objection to the relief prayed for in the present petition has been raised subject, however, to the Petitioner Company filing all the said statutory documents from the year 1995 onwards, alongwith the prescribed filing fee and additional fee as on the date of actual filing, in accordance with law.

10. The Annual Returns and Balance Sheets of the Petitioner Company from the year 1996 till date, have been filed by the Petitioner Company as annexures to the present Petition. Further, an Affidavit-cum-Undertaking, dated 24.10.2016, has been filed by Mr. Naveen Agarwal, Director of the Petitioner Company wherein he has undertaken to file all the statutory documents, required to be filed under the mandate of the provisions of the Act, from the year 1995 onwards till date, with the Respondent, within a period of 6 weeks from the date of restoration of the name of the Petitioner Company in the Register of Companies maintained by the Respondent.

11. In *Purushottamdass and Anr. (Bulakidas Mohta Co. P. Ltd.) v. Registrar of Companies, Maharashtra, & Ors.*, reported as (1986) 60 Comp Cas 154 (Bom), the Bombay High Court has held, *inter alia*, as hereunder:

“The object of section 560(6) of the Companies Act is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and to give them an opportunity of carrying on the business only after the company judge is satisfied that such restoration is necessary in the interests of justice”

12. The decision in *Purshottamdass (supra)* has been followed by this Court in *Pancham Hotels Pvt. Ltd. v. Registrar of Companies*, bearing Company Petition No.554/2014; *M/s Medtech Pharma (India) Pvt. Ltd. v. Registrar of Companies*, bearing Company Petition No.241/2009; *M/s Santaclaus Toys Pvt. Ltd. v. Registrar Of Companies*, bearing Company Petition No.271/2009; *M/s Deepsons Non-Ferrous Rolling Mills Pvt. Ltd. v. Registrar of Companies, NCT of Delhi and Haryana*, bearing Company Petition No. 285/2009; *M/s Kakku E and P Control Pvt. Ltd. & Anr. v. The Registrar of Companies, NCT of Delhi and Haryana*, bearing Company Petition No. 409/2008; and *M/s Sohal Agencies Pvt. Ltd. v. Registrar of Companies, NCT of Delhi and Haryana*, bearing Company Petition No. 297/2009.

13. In view of the foregoing, upon considering the facts and circumstances of the present case and in light of the settled position of law, I am of the view

that it would be just and proper to order restoration of the name of the Petitioner Company in the Register of Companies maintained by the Respondent.

14. Upon the Petitioner Company filing all the statutory documents i.e. Annual Returns and Balance Sheets till date, along with the prescribed filing fee and additional fee in compliance with all the statutory requirements, the name of the Petitioner Company, its directors and members shall, stand restored to the Register of Companies maintained by the Respondent, as if the name of the Petitioner Company had not been struck off, in accordance with Section 560(6) of the Act.

15. The Petitioner Company is directed to deliver to the Respondent a certified copy of this order, in compliance with Rule 93 of the Companies (Court) Rules, 1959. The Respondent shall, thereafter, proceed in this matter in accordance with the Act and the Rules framed thereunder.

16. No order as to costs.

17. Consequently, the Petition is allowed in the aforesaid terms and is disposed of accordingly.

SIDDHARTH MRIDUL, J

FEBRUARY 17, 2017
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