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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/509/2022

M/S. AMRIT FRESH PVT. LTD.
VERSUS
THE REGISTRAR OF COMPANIES WEST BENGAL

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 25th February, 2022

Appearance:
Mr. K. R. Thakker, Adv.
Mr. Avishek Guha, Adv.
Mr. Karan Keswani, Adv.

Mr. Avinash Kankani, Adv.

The Court :- The writ petitioner is a successful resolution applicant, who has purchased as a going concern, the assets of one Amrit Fresh Private Limited in insolvency proceedings before the National Company Law Tribunal, Kolkata.

Since after take over the petitioner sought to regularize the accounting compliances of the company which were not filed since the year 2017-18. The petitioner was required to pay fees for such filing. However, since the said company, prior to the petitioner's take over, was in default towards such compliance, the ROC has chosen to impose late fees/penalty for the years for which the accounts were not filed.

Counsel for the petitioner would submit that in view of the decision of the Supreme Court in the case of [**Ghanashyam Mishra & Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited reported in (2021) 9 SCC**

657], the petitioner is not liable for any of the past dues - statutory or otherwise of the said company.

This Court notices that the petitioner cannot be held liable for the default of the said company prior to the Resolution plan. It is the company and its past management which was liable for the same.

In those circumstances, the writ petitioner shall not be liable for payment of any late fees/penalties from the year 2016-17 till March, 2022. He shall, however, be liable to pay the regular fees payable therefor. The Office of the Registrar of Companies shall accept the regular fees and shall not charge any late fees/penalties therefor.

The responsibility for compliance of the aforesaid order shall vest in the Regional Director, ROC, Kolkata.

With the aforesaid observations, WPO No. 509 of 2022 is disposed of.

No order as to costs.

Urgent photostat copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(RAJASEKHAR MANTHA, J.)

