IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16-10-2025**

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2808 of 2025

And

CMP.Nos. 22661 &22662 of 2025

Ootacamund Club
179, Club Road, Ootacamund,
Nilgiris -643001.
represented by its Secrtary,
Mr.Oommen Abraham ..Appellant

Vs

1. The Registrar of Companies,
Tamil Nadu – Coimbatore
1st Floor, Civil Aerodrome Post,
Coimbatore -641014.

2.The Regional Director (Southern Region)
Ministry of Corporate Affairs,
5th Floor, Shastri Bhavan,
26 Haddows Road, Chennai-600006.

3.Lt.Col. Sandeep Dewan (Retd.)
Clouds End Cottage,
DFL Estate, Lovedale,
Ootacamund – 643003 ..Respondents

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 29.08.2025 passed in W.P.No. 20790 of 2025.

For Appellant: Mr.P.H.Arvind Pandian, Senior Advocate
For Suhrith Parthasarathy
For Respondents : Mrs. Sushma, Senior Panel Counsel -R1 &R2
Lt.Col. Sandeep Dewan, Party-in-Person -R3

JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

This intra-Court appeal assails the order dated 29.08.2025 passed by the learned Single Judge in W.P.No.20790 of 2025. By the said order, the learned Single Judge dismissed the writ petition filed by the appellant challenging the order of the first respondent, whereby the certificate dated 24.01.2025, certifying that the appellant was registered under Section 8 of the Companies

Act, 2013 came to be withdrawn.

2. The appellant asserts that it is a company limited by guarantee, originally incorporated on 02.05.1889 under the Indian Companies Act, 1882, and claims that it continues to be a company registered under Section 8 of the Companies Act, 2013.

3. The third respondent, who was a member of the appellant-club, was removed from membership, whereafter he initiated several proceedings against the appellant before different forums, including proceedings before the National Company Law Tribunal (NCLT) under Section 7(7) of the Companies Act, 2013. In the said proceedings, he has challenged the status of the appellant, which claims to be a company registered under Section 8 of the Act, 2013. The first respondent is also arrayed as a respondent in those proceedings.

4. During the pendency of the proceedings before the NCLT, in January 2025, the appellant approached the first respondent seeking issuance of a certificate certifying that it is registered under Section 8 of the Companies Act, 2013. The said request was acceded to, and a certificate to that effect was issued

on 24.01.2025.

5. Upon coming to know of the said issuance, the third respondent submitted a complaint to the second respondent seeking a direction to the first respondent to cancel the certificate. Based on the said complaint, the first respondent issued a notice calling upon the appellant to show cause as to why the certificate should not be withdrawn. After considering the appellant’s reply, the first respondent issued proceedings dated 22.05.2025 withdrawing the certificate dated 24.01.2025.

6. Aggrieved by the said order, the appellant filed W.P.No.20790 of 2025, which came to be dismissed by the learned Single Judge vide order dated 29.08.2025, confirming the action of the first respondent. Hence, the present writ appeal.

7. Mr. P.H. Arvind Pandian, learned Senior Counsel appearing for the appellant, submitted that the certificate dated 24.01.2025 was issued by the first respondent purely on the basis of records available in its office, and the said certificate contained no restriction regarding its use, nor did it preclude the

appellant from producing the same before any forum.

8. He contended that such a certificate could be withdrawn only if it was obtained by fraud or misrepresentation, and in the absence of any express statutory power to withdraw the certificate, the first respondent lacked authority to do so. He further submitted that mere issuance of the certificate does not prejudice the rights of the third respondent to agitate his claim before the NCLT, and therefore, the learned Single Judge, without considering these aspects in proper perspective, erred in upholding the withdrawal of the certificate.

9. Lt.Col.Sandeep Dewan, party-in-person and third respondent, submitted that the appellant is not entitled to registration under Section 8 of the Act, 2013, since its aims and objects do not fall within the scope of objects enumerated in clause (a) of Section 8 of the Companies Act, 2013. He further submitted that the appellant had sought issuance of the said certificate ostensibly for submission to the Income Tax Department, but in reality, it produced the same before the NCLT to negate his claim that the appellant is not eligible for registration under Section 8.

10. He contended that the appellant suppressed the pendency of the proceedings before the NCLT while obtaining the said certificate, and that the learned Single Judge, having rightly appreciated these facts, justly dismissed the writ petition. According to him, the certificate was obtained by suppression and misrepresentation with an intent to mislead authorities, evade taxes, and commit fraud.

11. Mrs. Sushma, learned Senior Panel Counsel appearing for respondents 1 and 2, adopted the submissions of the third respondent and added that the question whether the appellant is registered under Section 8 of the Act, 2013 is already pending consideration before the NCLT, wherein the first respondent is also a party. Therefore, issuance of the certificate during the pendency of those proceedings amounted to pre-judging an issue that is sub judice.

12. She further submitted that the certificate was issued only for the limited purpose of producing it before the Income Tax Department, as requested by the appellant, but the appellant, by suppressing the pendency of the NCLT proceedings, misused the certificate by producing it before the NCLT. Hence, since the certificate was obtained by suppression and misrepresentation, its withdrawal was justified, and the order of the learned Single Judge warrants no interference.

13. The submissions made by the learned counsel for the parties and the materials placed on record have been duly considered.

14. The factual matrix of the case has already been elaborated supra and, therefore, need not be reiterated in detail.

15. The third respondent filed a petition under Section 7(7) of the Companies Act, 2013, challenging the status of the appellant as a company registered under Section 8 of the Act, primarily contending that the appellant's objects do not fall within the ambit of clause (a) of Section 8.

16. Pending those proceedings before the NCLT, wherein both the appellant and the first respondent are arrayed as parties, the appellant sought issuance of a certificate from the first respondent, certifying that it is registered under Section 8 of the Companies Act, 2013, for submission before the Income Tax Department. It was represented that the changes in the Corporate Identification Number (CIN) were not reflected in the MCA Master Data.

I7. In response, the first respondent issued the said certificate "to whomsoever it may concern," certifying that, based on records available in the MCA-21 portal, the appellant was incorporated under the Indian Companies Act, 1882, on 02.05.1889 under the jurisdiction of the Registrar of Companies, Coimbatore, and that the company is a Section 8 company limited by guarantee. The certificate further recorded that the information therein was based on documents and records available in the MCA-21 portal.

18. After issuance of the said certificate, the appellant produced it before the NCLT. Subsequently, the third respondent lodged a complaint with the second respondent requesting that the first respondent withdraw the certificate. Thereafter, the first respondent issued a show cause notice dated 09.05.2025

calling upon the appellant to explain why the certificate should not be withdrawn, on the ground that it had been issued solely for submission to the Income Tax Department and was not intended to be used in pending litigation.

19. The appellant submitted a detailed reply dated 14.05.2025, contending that the certificate contained no restriction or limitation on its use, as it was expressly addressed “to whomsoever it may concern,” and was produced before the NCLT in good faith as part of its reply, merely as evidence of its legal status.

20. It is admitted that the appellant had initially sought issuance of the said certificate for the purpose of production before the Income Tax Department. The first respondent issued the certificate not based on any fresh information furnished by the appellant, but solely on the records available in its office. Even if such an application were made under the Right to Information Act, the first respondent would have been statutorily obliged to furnish the same information based on the records available.

21. Merely because the request was made for the limited purpose of submission to the Income Tax Department, it cannot preclude the appellant from producing the certificate before any other forum. The appellant continues to stand registered as a Section 8 company in the records of the first respondent, and the question whether such registration is valid in law is an issue pending adjudication before the NCLT. The issuance of the certificate by itself does not prejudice the rights of either the third respondent or the first respondent to contest the matter before the NCLT.

22. A certificate of this nature can be withdrawn only if it is demonstrated that it was obtained fraudulently or by misrepresentation. Since the certificate in the present case was issued based solely on official records, the first respondent was not justified in withdrawing it on the ground that it was issued only for the purpose of production before the Income Tax Department. Moreover, the certificate did not contain any restriction preventing its production before any forum.

23. The learned Single Judge erred in concluding that the first respondent would not have issued the certificate had it been aware of the pendency of proceedings before the NCLT. The third respondent is, however, at liberty to substantiate before the NCLT his allegation that the appellant is falsely projecting itself as a Section 8 company by providing misleading information.

24. Nevertheless, since the appellant stands registered under Section 8 of the Companies Act, 2013,whether rightly or wrongly, a matter that is to be adjudicated by the NCLT, as the certificate in question was issued strictly on the basis of the existing official records, the first respondent acted beyond its authority in withdrawing the said certificate. Consequently, the impugned order of the learned Single Judge is unsustainable and liable to be set aside.

25. Accordingly, the writ appeal stands ***allowed***. The impugned order dated 29.08.2025 passed by the learned Single Judge is set aside. Consequently, the order dated 22.05.2025 bearing No. ROC/CBE/Complaint/000136/2025 passed by the first respondent, which was impugned before the learned Single Judge, is also set aside, and the certificate dated 24.01.2025 issued by the first respondent in favour of the appellant is restored.

26. All the contentions of the parties before the NCLT are kept open. The NCLT shall adjudicate the matter strictly in accordance with law and on its own merits, without being influenced by any of the observations made in this order. Any observations herein are only for the purpose of the present petition.

(R.S.K.,J) (H.C., J)

16.10.2025

Index : Yes / No
Internet : Yes/No
Neutral Citation : Yes / No
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