



2025:DHC:9330



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

% *Date of decision: 8th October, 2025*

+ CRL.M.C. 7534/2023

MR KRISHAN LAL GULATI & ANR.

.....Petitioners

Through: Mr. Kanwal Chaudhary, Mr. Dinesh Priani, Mr. Ankit Kumar, Mr. Komal Priani and Mr. Vatsal Sharma, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the State.
None for complainant/ respondent no. 2.

47

+ CRL.M.C. 7559/2023

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CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. *Vide* this common order, the aforementioned two petitions are being disposed of as the dispute is between the same parties involving the same issue and the grievance is also common, seeking quashing of the criminal complaints pending before the Trial Court.
2. Petitioners herein seek quashing of two pending criminal complaint cases bearing CC No. 2619/2020 and CC No. 4735/2020, both under section 138 of the NI Act filed by complainant company titled as ***“Raghav Aditya Chits Pvt Ltd. vs Space Services (India) Pvt Ltd. & Ors.”*** The petitioners were directors of the accused company i.e. M/S Space Services (India) Pvt Ltd. After filing of the complaints the complainant company has been wound up in accordance with law, hence the quashing petitions.
3. Brief background, shorn of unnecessary details, giving rise to both the petitions in hand are that to discharge its liability, a Cheque No. 033217 dated 10.11.2019 for ₹1,93,00,000 was issued by respondent no.2 company, which was dishonoured on 27.11.2019 with the remark *“Contact Drawer/Drawee Bank and Present Again.”* A legal notice dated 23.12.2019 was issued, but payment was not made, leading to filing of the complaint no. 2619/2020. The Petitioners, being directors of the respondent no.2 company, were summoned as Accused Nos. 2 and 3 by summoning order dated 21.12.2020.
 - 3.1 Likewise another Complaint (CC No. 4735/2020) was filed wherein to discharge its liability, Cheque No. 033216 dated 10.10.2019 for



₹1,76,00,000 was issued by Respondent No.2 company, which too was dishonoured on 06.12.2019 with the same remark. A legal notice dated 23.12.2019 was issued, but payment was not made. The Petitioners/Directors were also summoned as Accused Nos. 2 and 3 vide summoning order dated 05.10.2021.

3.2 Case set up by the petitioners is that the cheques were security cheques issued in 2011 at the start of the transactions between complainant company and the accused company and were never meant for presentation. The complainant allegedly misused them by inserting new dates and inflated amounts.

3.3 The complainant company was struck off from the Register of Companies by the ROC, Delhi and Haryana on 08.08.2018, hence ceased to exist when the complaints were filed in 2020.

3.4 Despite dissolution of complainant company, the ex-directors continued operating its bank account and presented the cheques in the name of a non-existent company, amounting to abuse of process.

3.5 The Petitioners filed applications before the learned MM, Rouse Avenue Courts, seeking dismissal of both complaints as non-maintainable, submitting certified ROC records and the complainant company strike-off notification.

3.6 The learned MM, vide order dated 22.12.2022, dismissed the Petitioners' applications, holding that maintainability could not be decided post-cognizance, and directed both complaints to proceed to the stage of framing notice under Section 251 CrPC, leading to the present petitions.

4. Learned counsel for the Petitioners argues on the lines of the grounds pleaded in both petitions, urging *inter alia*, that the Respondent No.2



company (the Complainant company) was neither a juristic person nor a legal entity at the time of filing the complaints under Section 138 of the NI Act in 2020, as it had been struck off and dissolved by the Registrar of Companies, Delhi & Haryana, through Notice No. ROC/Delhi/248(5)/STK-7/4865 dated 08.08.2018.

4.1 Under Section 2(20) of the Companies Act, only a company registered under the Act or previous company law qualifies as a legal entity. Since Respondent No.2 had ceased to exist by 2018 which is an admitted fact and thus it lacked legal capacity to institute any complaint.

4.2 It is submitted that Respondent No.2, its ex-directors, and authorised representatives had concealed the fact of dissolution and falsely represented the company as operational before the Trial Court, allegedly fabricating or misrepresenting incorporation documents, including Certificates of Incorporation.

4.3 That the complaints under Section 138 NI Act were legally untenable, having been filed by a non-existent entity through unauthorised persons. Consequently, the cheques and statutory legal notices issued in the company's name were invalid, and no valid cause of action could arise from them.

4.4 Referring to Sections 248(5), 248(6), and 250 of the Companies Act, it is contended that only the Registrar of Companies has authority to operate accounts or realise dues of a dissolved company. Since no such supervision or authorisation existed, the ex-directors' actions were without legal authority.

4.5 It is urged that the alleged board resolutions authorising representatives of Respondent No.2 are false and fabricated, as the directors



had already ceased to hold office and were disqualified under Section 164. Any continuation of business, operation of bank accounts, or initiation of legal proceedings by ex-directors defeats the statutory intent of dissolution under Section 248.

4.6 That the Trial Court erred in law by misinterpreting Sections 248 and 250 of the Companies Act and Section 256 CrPC, while passing summoning orders dated 21.12.2020 and 05.10.2021, despite the complainant company being struck off at the time of filing.

4.7 It is the argument that upon dissolution, all assets, bank accounts, and properties of Respondent No.2 automatically became *bona vacantia*, vesting in the Government by way of *escheat*. Hence, ex-directors or representatives had no legal right or entitlement over them. Reliance was placed on Ministry of Finance and MCA notifications dated 05.09.2017 and 06.09.2017, which prohibit ex-directors of struck-off companies from operating accounts or filing complaints. Any action contrary to these directions was therefore unauthorised and illegal.

4.8 It is also argued that the cheques in question were security cheques issued in 2011, never intended for presentation, but were later misused by ex-directors after the company's dissolution to extort money. Moreover, the alleged debt was time-barred, as the transaction took place between April 2011 and April 2014, making the 2020 complaints legally untenable.

4.9 Lastly, it is submitted that Petitioner No.2 had no involvement in the company's day-to-day affairs, was not a signatory to the cheques, and no specific allegations were made against her in either complaint. Therefore, any continuation of proceedings against the Petitioners would amount to an abuse of the process of law.



5. Having heard the learned counsel for the petitioners and perused the case file, I find merit in the submissions advanced by the learned counsel for the petitioners. In view thereof, and for the reasons stated hereinafter, I am of the considered opinion that both the petitions deserve to be allowed as the learned Trial Court committed irregularity in law while passing impugned order dated 22.12.2022 for the reasons stated herein after.

6. First and foremost, before advertng to merits, the order-sheet of the case file reflects that respondent no. 2 was being represented through a counsel. However, none appears today. It so seems that in view of the detailed order dated 13.10.2023 passed by Coordinate Bench of this Court, the Complainant/Respondent No. 2 has accepted the futility of the *lis* as *fait accompli*. Since the accused company *M/s. Raghav Aditya Chits Pvt Ltd.* has been dissolved in accordance with law. After perusal of the case file *vis-à-vis* the preliminary observations in the aforesaid order, with which I am in agreement, that alone suffices for both the present petition to be allowed.

7. However, adumbrating further, reference may be had to Sections 248(5), 250 of the Companies Act, 2013 which read as under:-

“248.(5) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.”

*“250. Effect of company notified as dissolved.—
Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (5) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities*



or obligations of the company.”

8. To fortify above position in law, a notification dated 05.09.2017 was also issued by the Department of Financial Services, Ministry of Finance, Union of India reads as under:-

“Government has stepped up decisive action against companies falling within the ambit of Section 248 of the Companies Act. The names of 2,09,032 companies have been struck off from the Register of Companies under Section 248 (5) of the Act. The existing Directors and Authorized Signatories of such struck off companies will now become ex Directors or ex Authorized Signatories. These individuals will therefore not be able to operate bank accounts of such companies till such companies are legally restored under Section 252 of the Companies Act by an order of the National Company Law Tribunal. The restoration, as and when it happens shall be reflected by change in the status of the company from Struck off to Active.

Since such “Struck off” companies have ceased to exist, action has been initiated to restrict the operation of Bank accounts of such companies. The Department of Financial Services has, through the Indian Banks Association, advised all Banks that they should take immediate steps to put restrictions on bank accounts of such struck off companies. A list of such companies, Registrar of Companies wise, has been published on the website of the Ministry of Corporate Affairs.

In addition to such struck off companies, Banks have also been advised to go in for enhanced diligence while dealing with F companies in general. A company even having an active status on the website of the Ministry of Corporate Affairs but 0 defaulting in filing of its due Financial Statement (s) or Annual Return (s) of Particular of Charges on its assets on the 11 secured loan should be seen with suspicion as, prima facie, the company is not complying with its mandatory statutory obligations to file this vital information for availability to its stakeholders.”

9. Thus, the provisions contained in Sections 248(5) and 250 of the



Companies Act, 2013, deal with the strike-off and dissolution of companies by the Registrar of Companies. Under Section 248(5), the Registrar may strike off a company's name from the register if no cause is shown, and upon publication of such notice in the Official Gazette, the company stands dissolved. Section 250 further clarifies that once dissolved under Section 248, the company ceases to operate as a legal entity and its certificate of incorporation is deemed cancelled, except for limited purposes such as realizing dues or settling liabilities.

10. As already noted, supra, Government Notification dated 05.09.2017 issued by the Department of Financial Services, states that companies struck off under Section 248(5) cease to exist in law, their directors become ex-directors, and their bank accounts remain frozen until such companies are restored under Section 252 of the Act. This notification, issued in the context of a large-scale corporate clean-up, reinforces that any transactions or operations by a struck-off company would be legally impermissible until its restoration.

11. The cheques in question, dated 10.11.2019 in CC No. 2619/2020 and 10.10.2019 in CC No. 4753/2020, the subsequent legal notices, both dated 23.12.2019, and the complaints filed under Section 138 of the Negotiable Instruments Act, 1881, are all actions that occurred after the company's dissolution. This sequence clearly indicates that the company was non-existent in law at the time of these transactions and, therefore, could not have validly participated in commercial dealings or maintained bank accounts.

12. Once a company is struck off and stands dissolved, it loses its juristic personality, rendering any act done on its behalf void ab initio unless the



company is restored under Section 252 of the Companies Act. Consequently, a cheque issued in the name of or by such a dissolved company cannot be treated as a legally enforceable instrument, since no valid drawer or account-holder exists in law. Proceedings under Section 138 of the Negotiable Instruments Act, which presuppose a validly issued cheque, therefore, cannot be sustained in such circumstances.

13. Continuation of the trial would thus serve no legal purpose when the complainant company itself has ceased to exist. Criminal prosecution cannot be maintained by or against a dissolved entity.

14. Accordingly, it is a fit case to exercise inherent powers to prevent a miscarriage of justice. Both the criminal complaint cases bearing CC No. 2619/2020 and CC No. 4753/2020, both titled as “*Raghav Aditya Chits Pvt Ltd. vs Space Services (India) Pvt Ltd. & Ors.*” are thus quashed and the impugned order dated 22.12.2022 is set aside.

15. However, the successors in interest of the respondent no.2/complainant are at liberty to proceed against the promoters/directors/petitioners of the accused company by resorting to any other alternative remedy, if the law so permits.

16. The petitions are allowed accordingly.

ARUN MONGA, J

OCTOBER 8, 2025/rs/nk