

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 38 of 2020

IN THE MATTER OF:

Vipra Containers Pvt. Ltd.
(Through its Authorized Representative)
CIN: U25200DL2010PTC200006
Registered Office at A-96
Saraswati Vihar, Pitampura
Delhi North Delhi DL 110034 IN.
Email: mksroc@yahoo.com

....Appellant

Vs.

Registrar of Companies, NCT of Delhi & Haryana
4th Floor, IFCI Tower,
61, Nehru Place, New Delhi -110019
Email: roc.delhi@mca.gov.in
Ph: 011-26235703, 26235708

....Respondent

Present:

For Appellant: Mr. Prabhakar Kumar and Mr. Sanjeev Kataria,
Advocates

For Respondent: Mr. P.S Singh, Advocate

O R D E R
(Virtual Mode)

19.03.2021: Heard. This Appeal has been filed by the Appellant Company against Impugned Order dated 31.10.2019 passed by the National Company Law Tribunal, Court No. IV, New Delhi in Appeal No. 386/252/ND/2019. The Ld. NCLT dismissed the Appeal seeking revival of the name of company to the Register of Companies.

2. The Appellant claims and it is argued that the company was incorporated on 12.03.2010. The certificate of incorporation is at Page 56. The name was struck-off by the Respondent vide its Notice no. ROC-DEL/248(5)/STK-7/2879 dated 30.06.2017 (Page 59). It is accepted that

the Company failed to file financial statements since incorporation i.e. from 2010 till it was struck off. It is claimed that this was due to lack of proper professional guidance, oversight and inadvertent reasons.

3. The Appellant claims that to acquire land, the company had entered into Agreement to Sell dated 08.10.2010 with Mr. Sajjan Kumar and it paid Rs. 3,415,000/- for the land which was allotted to Mr. Sajjan Kumar by the Haryana State Industrial and Infrastructure Development Corporation. The document at Page 98 "Agreement to Sell" shows recital of Mr. Sajjan Kumar claiming to be absolute owner of the land as per allotment letter dated 31.07.2007. The Allotment Letter (Page 92) is allotted by Haryana State Industrial and Infrastructure Development Corporation with conditions. The Counsel for the Appellant submits that the Appellant was paying rent to HSIIDC through Mr. Sajjan Kumar, who is one of the Director of the Company. It is stated that due to technical difficulty and lack of proper professional guidance company could not actually come up and start functioning in spite of various efforts made. It is stated that the land could not come on the name of the company and this was one of the difficulty.

4. The Ld. NCLT in the impugned order has recorded as under:

"This is an appeal filed under Section 252 of the Companies Act for revival of the company. Learned Company Secretary argued in favour of revival of the company but during the argument he was not able to show any document or any proof of company being in operation or company holding any assets movable and immovable or any other factor to consider it to be just to revive the company. The documents placed do not reflect any details of company being

in either operation or having any reason able ground to consider the revival. The letter of allotment issued by the Haryana State Industrial and Infrastructure Development Corporation is in favour of one of the promoters of the company which was issued in 2007. The learned Company Secretary further states that the said promoter had entered into an agreement with the company for transferring the said land in the name of the company which is also dated 08.10.2010 but there are no consequential steps taken neither any documents are placed on record to substantiate the execution of the said documents. Learned AROC states that the company has not filed the financial statements since incorporation i.e. from 2010. Hence, in our view there is nothing on record to bring the company under the reasons mentioned in Section 252 which the company is required to prove by seeking revival. In view of the same, application is dismissed.”

5. After gone through the above impugned order we find it difficult to take exception to this order. The Learned Counsel for the Appellant states that the Directors prepared financial statement but they were never filed. The fact remains that allotment of land was in the name of one Mr. Sajjan Kumar. He appears to be one of the Directors of the company. Nothing has happened since 2010 and it appears time taken by Mr. Sajjan Kumar to set up Industrial Unit is kept waiting where some Industrial Unit could have come up. We find that there is no equity in favour of the Appellant nor any legal ground on the basis of which the fault could be found with the Respondent striking off name of such company.

6. There is no substance in the Appeal. Hence, the Appeal is dismissed.

**[Justice A.I.S. Cheema]
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

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