

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 245 of 2018

IN THE MATTER OF:

Rakhee Textiles Industries Pvt. Ltd.

...Appellant

Versus

Registrar of Companies

...Respondent

Present:

For Appellant : Mr. Rishi Sood and Mr. Ashish Singh, Advocates

O R D E R

20.08.2018 The appellant filed the application under Section 252 of the Companies Act, 2013 for restoring the name of the company in the Registrar of Companies. Earlier the name of the company was struck off by the Registrar of Companies by publishing a public notice dated 28th July, 2017, immediately thereafter the application under Section 252 was filed. The National Company Law Tribunal, Mumbai Bench (hereinafter referred to as the 'Tribunal') taking into consideration the facts and circumstances of the case that the Annual Returns and Financial Statements for the financial years ended 31st March, 1991 to 31st March, 2017 and as the remaining documents are ready, allowed the application. However, while allowing the application the Tribunal imposed cost of Rupees Ten lakhs on the appellant by the impugned order dated 12th April, 2018. The grievance of the appellant is limited to the imposition of the cost which according to the appellant is not justified.

Notice was issued on Registrar of Companies, but no reply has been filed raising any objection.

Having heard learned counsel for the appellant and taking into consideration the fact that the Tribunal was satisfied that the appellant has enclosed the Audited Report and Financial Statements for the year ended 31st March 1991 to 31st March 2017 allowed the petition and that the application was filed immediately after striking off its name of the company, we are of the view that it was not a fit case for imposition of the cost on the appellant. However, it does not mean we have held that for delayed filing of the Audited Report and Financial Statements for the year ended between 31st March, 1991 and 31st March, 2017, no penal order can be passed under the Companies Act, 2013.

For the reasons aforesaid, while we set aside the order dated 12th July, 2018 passed by the Tribunal, Mumbai Bench so far it relates to the imposition of cost of Rupees Ten Lakhs on the appellant giving liberty to the Registrar of Companies to pass order for not filing the Audited Reports and Financial Statements between the years ended 31st March, 1991 and 31st March, 2017, if there is any such provision under the Companies Act, 1956 / 2013.

The appeal stands disposed of with the aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

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

ns/uk