

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) No.355 of 2018**

[Arising out of Order dated 28.08.2018 passed by National Company Law Tribunal, New Delhi Bench – III in Appeal No.244/252/ND/2018]

**IN THE MATTER OF:**

**Before NCLT**

**Before NCLAT**

Science Pyramid  
Publications Private Limited  
(Through Mr. Ravindra  
Kumar Pal, Director),  
Registered Office:  
632, Ground Floor,  
Mirza Wali Gali,  
Lado Sarai,  
New Delhi – 110030

Original Appellant

Appellant

**Versus**

The Registrar of Companies,  
Delhi & Haryana,  
4<sup>th</sup> Floor, IFCI Tower,  
61, Nehru Place,  
New Delhi

Original Respondent

Respondent

**For Appellant:**

**Shri Karanveer Jindal, Advocate**

**For Respondent:**

**Shri Vijay Chandra Joshi, Advocate**

**J U D G E M E N T**

**(14<sup>th</sup> February, 2019)**

**A.I.S. Cheema, J. :**

1. The Appellant Company has filed this Appeal being aggrieved by the Judgement dated 28.08.2018 passed by the National Company Law Tribunal, New Delhi Bench – III ('NCLT', in short) in Appeal

No.244/252/ND/2018. By the Impugned Judgement and Order, the learned NCLT dismissed the Appeal filed by the Appellant under Section 252 of the Companies Act, 2013 ('Act', in short) for restoration of the Company, which had been struck off on 7<sup>th</sup> June, 2017 vide STK – 7 (Page – 160).

2. We have heard learned Counsel for the Appellant and the learned Counsel for ROC and gone through the Appeal and Reply filed by the ROC.

3. The learned Counsel for the Appellant referred to Annexure – A1 as the copy of the Appeal, which was filed in NCLT with Diary No.2299 of NCLT. Referring to the Index, the Counsel stated that at Annexure – A5, the Appellant had inter alia, attached true copy of other records of the Company “depicting that it was carrying on its business”. In this, it is stated that the Appellant had attached certified true copy of the Bank Account with Punjab National Bank and the Rent Agreement dated 16<sup>th</sup> October, 2017. While Rent Agreement got referred, the Bank Account extract was not considered. The learned Counsel referred to the following observations of the learned NCLT:-

“4. We have considered the plea of the Appellant and the representations of RoC. It is evident from the plea of the Appellant that it admits the default and does not question the due process undertaken by the RoC in striking off the name of the Appellant Company as envisaged under Section 248 of the Companies Act, 2013. The Appellant is seeking restoration of its name in the register as mentioned by RoC relying on the ground that the Appellant as of date is carrying on the business for which it was incorporated. In order

to sustain the said plea, the Appellant has placed before us the following evidences:

- i. Acknowledgement of Income Tax payments made and returns filed for the assessment year 2016 – 17 and 2017 – 18.
- ii. Certified true copy of annual accounts for the financial year ended 31<sup>st</sup> March 2012 upto 31<sup>st</sup> March, 2017.
- iii. Rent agreement for the registered office premises from 01.10.2017 upto 31.08.2018.

5. A perusal of the documents filed by the Appellant Company and the arguments made by the counsel indicate that the Company has not filed that annual accounts with the ROC from the inception of the Company. Though the Company has averred in its petition that the Company has filed income tax returns regularly, it is argued by the Learned Standing counsel for IT that the Company has not filed the IT returns from the inception of the Company and has filed the tax returns for the AY 2016-17 and 2017-18 only on 03.03.2018 i.e. well after the Company has been struck off from the rolls of the ROC.

The lease rental documents for the registered office is only from 01.10.2017 to 31.08.2018. There is no indication about the lease details for the period prior to 01.10.2017. Though this is said to be a publishing company, the appellant has not produced sufficient evidence to prove its publication of books including scientific literature.

In view of the above reasons the Tribunal is not inclined to order revival of the Company and the appeal is dismissed.”

It is submitted by the learned Counsel that while the learned NCLT took note of the financial statements and Income Tax Returns and also Rent Agreement dated 16<sup>th</sup> October, 2017, NCLT missed out on material

document, which was from the record of Punjab National Bank, showing statement of account of the Appellant Company which related to the period - 8<sup>th</sup> March, 2014 to 8<sup>th</sup> October, 2017. It is argued that if the Bank Account had been considered, it would show that throughout this period, the Company was in operation and was also doing business. The learned Counsel submitted that the learned NCLT observed that there was no sufficient evidence to prove that the Appellant was actually doing publishing. It is argued that the Appellant proceeded on the basis that the Bank Statement should be sufficient to show that the Company was in business and in operation and thus, did not go for filing published documents which according to the Counsel, was in error of the Appellant. However, it is stated that the Appellant has now filed with this Appeal, Annexure A-4 – Rent Agreement, which is of 2010 and also filed with it, copy of relevant pages of a publication which was done in 2017. The Counsel referred to document at Page – 178 as part of publication titled “Permutations and Combinations Probability”. The Book is stated to be worth Rs.300/-. The learned Counsel submitted that the Rent Agreement attached with Annexure – A4, was with the land owner – Bhajpal Yadav entered into, in 2010 and the Bank Statements have entries showing payment of rents to this property owner and address of the property in the Rent Agreement is also registered address of the Company. The learned Counsel submitted that the Appellant should be given opportunity to rely on these additional documents.

4. The Counsel for ROC submitted that the ROC had followed all due procedures and as the Appellant did not respond to Notices, the Company was struck off.

5. The learned Counsel for the Appellant submitted that the Appellant, although it is registered publishing Company, is in small business but the same is reflected from the documents he filed in NCLT and which he has now tendered here in Appeal. He prayed for opportunity to Appellant Company to rely on such documents and grant of relief.

6. Going through the material on record, there is bank statement which appears to have been filed in NCLT, but which skipped attention. The Appellant has now tendered additional document with Annexure – A4 as Rent Agreement dated 22<sup>nd</sup> February, 2010 and a document, pages from what is stated to be book “Permutations and Combinations Probability”. It would be in interest of justice and appropriate that the matter is remanded back to the learned NCLT so that there is the benefit of the views of learned NCLT with regard to the Bank Account and these additional documents which have been now filed. It appears to us that the Bank Account – which is actually passbook entries filed in NCLT, skipped reference and analysis before NCLT. It would be appropriate to have the views of NCLT with regard to this document, which the Appellant claims is vital document to show that the Appellant Company was in business and in operation at the relevant time.

7. For above reasons, the Impugned Judgement/Order is quashed and set aside. Appeal No.244/252/ND/2018 is restored to file of NCLT, New Delhi Bench – III. The matter is remanded to NCLT. NCLT is requested to give opportunity to the Appellant to file further documents to support the Appeal which was filed in NCLT. The Appellant is directed to file copies of the documents as have been field before us at Annexure – A4, before the NCLT. NCLT is requested to rehear the parties and take a fresh decision considering the documents being relied on by the Appellant.

The Appeal is disposed accordingly. No Orders as to costs of present Appeal.

Parties to appear before NCLT on 05.03.2019.

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

[Balvinder Singh]  
Member (Technical)

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