

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 168 of 2018

IN THE MATTER OF:

Samarth Matoshree Estates Pvt. Ltd. ...Appellant

Vs.

ROC, Pune ...Respondent

Present: For Appellant: -Mr. Shrut Agrawal, Advocate

ORDER

20.07.2018— The Member of appellant preferred an application under Section 252 of the Companies Act, 2013 praying for restoring the name of the appellant in the Register maintained by Registrar of Companies, Pune. The National Company Law Tribunal (hereinafter referred to as 'Tribunal') taking into consideration the relevant documents which were ready with the Company and as the Company was willing to file the same and that the Audited Report and financial statement for the year ended 31st March 2017, Income Tax Return for Assessment years 2016-17 and 2017-18 were enclosed to show that the company is in continuous operation, allowed the application and order for restoration of the name of the Company in the Register of the Companies maintained by the Registrar of Companies (ROC).

2. However, while passing such order of restoration by impugned order dated 27th March 2018 in C.P.No. 587/252/NCLT/MB/MAH/2018, the Tribunal imposed cost of Rs. 7/- lakhs (Rs. Seven Lakhs only) on the

appellant company for payment in favour of Ministry of Corporate Affairs, Mumbai.

3. We have heard learned counsel for the appellant. Nobody appears on behalf of the respondent - Registrar of Companies, Pune.

4. However, we find that the Registrar of Companies is also not a necessary party but a formal party so far as it relates to imposition of cost is concerned, which has been ordered to be paid in favour of the Ministry of Corporate Affairs, Mumbai.

4. In view of the fact that the Member of the Company has made out clear case for restoration of the Company's name which has been noticed by the Tribunal, we hold that the Tribunal erred in imposing cost on the appellant which was uncalled for.

5. For the reasons aforesaid, the part of the order at paragraph 11, whereby cost of Rs.7/- Lakhs (Rs. Seven Lakhs only) has been imposed on the appellant is set aside. The rest part of the order dated 27th March 2018 is upheld.

6. The appeal is allowed to the extent above. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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