

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

**Company Appeal (AT) No. 170 of 2019**

**IN THE MATTER OF:**

**PROQ Venture Advisors Pvt. Ltd.**

**...Appellant**

**Versus**

**RoC Mumbai & Anr.**

**...Respondents**

**Present:**

**For Appellant :**

**Mr. Alakh Alok Srivastava, Mr. Amrendra Sinha,  
Mr. Chandan Kumar Singh, Advocates**

**O R D E R**

**30.07.2019**      The Appellant Company was incorporated on 13<sup>th</sup> December, 2011 under the Companies Act, 1956. It failed to file 'financial statements' and 'annual returns'; also it did not carry on any business activity since its incorporation; neither applied for PAN number nor had opened a Bank account and it never filed 'Income-tax Return'. It was in this background, the Registrar of Companies, Mumbai by order dated 7<sup>th</sup> July, 2017 struck down the name of the company and dissolved it.

The Appellant preferred an application u/s 252 of the Companies Act, 2013 for restoration of the company by setting aside the order of the Registrar of Companies, Mumbai only on one of the ground that no opportunity was given to the company or its Directors while passing order under Section 248 of the Companies Act, 2013. The National Company Law Tribunal (hereinafter referred to as the '**Tribunal**') by order dated 10<sup>th</sup> October, 2018 took into consideration the facts and circumstances of the case and dismissed the petition. The said order is under challenge but as it is barred by limitation in terms of the Proviso

to sub-section (2) of Section 421 of the Companies Act, 2013 this Appellate Tribunal has no jurisdiction to condone the delay and in fact no petition for condonation has been filed.

Learned counsel for the Appellant submitted that one Miscellaneous Application No. 1772 of 2019 in C.P. No. 1677/252(1)/2018 was filed by the Company under sub-section (2) of Section 420 for rectification of the mistake and thereby to recall and review of the order. However, we are of the view that the orders cannot be reviewed or recalled under sub-section (2) of Section 420, which reads as under:

**“420. Orders of Tribunal**

- (1) *The Tribunal may, after giving the parties to any proceeding before it, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.*
- (2) *The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:*

*Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.”*

The Tribunal has inherent power under Rule 11 of the National Company Law Tribunal Rules, 2016 which gives power to make such order as may be

necessary for meetings the ends of justice. One may argue that in the said Rule i.e. Rule 11 if an error is apparent on the face of the record, the Tribunal can exercise its inherent power under Rule 11 to make such order as may be necessary for meeting the ends of justice. The only ground taken by the Appellant is that the date of incorporation of the company has been wrongly reflected as 25<sup>th</sup> October, 2003 in original order. However, even if such error is corrected and read as 14<sup>th</sup> March, 2011, the substantive part of the order passed on 10<sup>th</sup> October, 2018 cannot be interfered.

The other ground taken is that the company or its Directors were not heard while the notice was issued by the Registrar of Companies, but we are not inclined to remit the matter or set aside the order of the Registrar of Company as it will be futile exercise as the application under Section 252 has been decided on merit. This apart, we have also heard the learned counsel appearing on behalf of the Appellant on merit and we find that there is no ground of interference with either of the orders. In absence of any merit, the appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc