



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

**Company Appeal
(C/Act)/02/KOB/2025**

*(Under Section 252 of the
Companies Act, 2013)*

***Date of Institution: 29.04.2025
Order delivered on: 11.11.2025***

**In the matter of M/s. Sakthan
Builders and Developers (India)
Private Limited**

Memo of Parties:

Mr. BIJU V A

56, Karakkat House,
Puthiyedom, Kanjoor,
Aluva, Ernakulam – 683575

... Appellant

-Vs-

**REGISTRAR OF COMPANIES, KERALA
& LAKSHADWEEP,**

Corporate Bhavan, BMC Road,
Thrikakara, Kochi- 682021.

... Respondent

Coram:

Hon'ble Member (Judicial) : Shri. Vinay Goel

Hon'ble Member (Technical) : Smt. Madhu Sinha



Appearances:

For the Appellant : Ms. KPS Suresh, Advocate

For the Respondent : Authorised Representative of RoC

ORDER

Per Coram

1. This Company Appeal has been filed by one of the directors of M/s. Sakthan Builders and Developers (India) Private Limited, Mr Biju V N, under Section 252 of the Companies Act, 2013, for restoration of the name of the struck-off company in the Register of Companies ("RoC"), maintained in the office of the RoC, Kerala. The name of the Company was struck off vide STK-7 Notice dated 16.06.2017.
2. The averments made by the Appellant are summarized as under: -
 - i. The Company was incorporated on 06.10.2010 with (CIN: U45200KL2010PTC026843) having registered office at Penta Plaza, First Floor, Puthiyedom, Kanjoor. P.O, Ernakulam, Kalady, Kerala, India, 683575. The main objects of the company are
"to carry on in India or elsewhere, either alone or jointly with one or more persons, Government, local or other bodies, the business of buying and selling of lands for land development, construction of buildings, Resorts, lodging houses, residential or commercial complexes. Amusement parks, bridges, canals, and letting out or selling, or running the said projects and consultants, and contracts."



- ii. The name of the company was struck off by the Respondent on the grounds of non-filing of Balance Sheets and Annual Returns from FY 2010-2011 onwards.
- iii. The Appellant stated that the company failed to file its Balance Sheets and Annual Returns from 2010-11 onwards due to lack of coordination with professionals and lack of awareness about filing requirements. And stated that since its incorporation, the company had not carried on any active business except for the initial purchase of land on 02.12.2010, and its operations remained insignificant thereafter. The company was primarily managed by its Director, Shri P. Asokan, who attempted to maintain accounts and have them audited. However, when professionals were approached for filing overdue returns, the company was informed about the heavy late filing charges and consequences of default.
- iv. Before the overdue documents could be filed, the company's name was struck off by the Registrar of Companies on 16.06.2017. Though a notice under STK-5 was issued, it did not come to the company's attention. The company's name was subsequently published in the Official Gazette on 15.07.2017 in the STK-7 list of struck-off companies at Sl. No. 3235. No separate order of strike off was served on the company.
- v. The company is a closely held private limited company with 28 shareholders. It owns immovable property situated in Kanjoor Village, Ernakulam District, Kerala, covered under Registration No.



2705/1/2010 dated 02.12.2010. The members and directors of the company have given their consent for restoration.

- vi. And stated that the striking off was carried out merely for non-filing of returns, without affording a proper opportunity of hearing, which is prejudicial to the interests of the company, its shareholders, and creditors. Further added that the company intends to regularize its statutory filings and resume its business activities, including construction-related development works, and hence seeks restoration under section 252 of the Companies Act, 2013.
 - vii. The company falls under the jurisdiction of RoC, Kerala. This appeal was filed by the director of the company and comes within the period of limitation as per section 252(3) of the Companies Act, 2013.
3. The RoC, Kerala, filed their reply stating that, as per Section 248(1) of the Companies Act, 2013, read with Rules, a notice in Form STK-1 was issued to the company and its directors on 31.03.2017, granting a 30-day period to respond. Since no reply was received, further proceedings were initiated, and a public notice in Form STK-5 was published in the Official Gazette on 13.05.2017 and in newspapers on 10.05.2017 and 11.05.2017. As no valid objections were raised, the company's name was struck off from the Register of Companies on 16.06.2017 under Section 248(5), which was later notified in the Official Gazette on 15.07.2017.
 4. The company had failed to file financial statements and annual returns from FY 2010-11 onwards, thereby violating the provisions of Sections



220 and 159 of the Companies Act, 1956, and Sections 137 and 92 of the Companies Act, 2013. The strike-off action was taken due to continuous non-compliance with statutory filing obligations by the company and its directors.

5. The Income Tax Department filed a memo stating that it has no objection to the restoration of the Appellant company subject to the right of the department to proceed against the Appellant Company in the event of any assessment.

Analysis and Findings

6. We have considered the submissions made by Learned Counsel for the Appellant, as well as the RoC report and other materials available on record. The name of the company was struck off from the Register of Companies on 16.06.2017 for the reason that the company did not file its annual returns or audited financial statements for the company for financial years from FY 2010-11 till FY 2023-24 with the RoC within the due date as per the provisions of the Companies Act. It is an admitted fact that the company has failed to comply with the said relevant provisions of the Act.
7. Section 248(1)(c) and 252 reads as follows :

Power of Registrar to remove name of company from register of companies - (1) Where the Registrar has reasonable cause to believe that—

(a) a company has failed to commence its business within one year of its incorporation or

(c) a company is not carrying on any business or operation for a period of two immediately preceding financial year and has not made any application within such period for obtaining the status of a dormant company under section 455, he shall send a notice to the company and



all the directors of the company, of his intention to remove the name of the company from the register of companies and requesting them to send their representations along with copies of the relevant documents, if any, within a period of thirty days from the date of the notice.

(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A; or

(e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.

(2) Without prejudice to the provisions of sub-section (1), a company may, after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent. members in terms of paid-up share capital, file an application in the prescribed manner to the Registrar for removing the name of the company from the register of companies on all or any of the grounds specified in sub-section (1) and the Registrar shall, on receipt of such application, cause a public notice to be issued in the prescribed manner :

Provided that in the case of a company regulated under a special Act, approval of the regulatory body constituted or established under that Act shall also be obtained and enclosed with the application.

(3) Nothing in sub-section (2) shall apply to a company registered under section 8.

(4) A notice issued under sub-section (1) or sub-section (2) shall be published in the prescribed manner and also in the Official Gazette for the information of the general public.

(5) At the expiry of the time mentioned in the notice, the Registrar may, unless cause to the contrary is shown by the company, strike off its name from the register of companies, and shall publish notice thereof in the Official Gazette, and on the publication in the Official Gazette of this notice, the company shall stand dissolved.

(6) The Registrar, before passing an order under sub-section (5), shall satisfy himself that sufficient provision has been made for the realisation of all amount due to the company and for the payment or discharge of its liabilities and obligations by the company within a reasonable time and, if necessary, obtain necessary undertakings from the managing director, director or other persons in charge of the management of the company:

Provided that notwithstanding the undertakings referred to in this sub-section, the assets of the company shall be made available for the payment



or discharge of all its liabilities and obligations even after the date of the order removing the name of the company from the register of companies.

(7) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section(5), shall continue and may be enforced as if the company had not been dissolved.

(8) Nothing in this section shall affect the power of the Tribunal to wind up a company the name of which has been struck off from the register of companies.

Section 252. Appeal to Tribunal.—*(1) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:*

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned:

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(2) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

*(3) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248 may, **if satisfied that the company was, at the time of its name being struck***



off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off from the register of companies.

8. Section 252(3) of the Companies Act, 2013 empowers this Tribunal to order restoration if satisfied that the company was, at the time of being struck off, carrying on business or in operation, or otherwise if it is just that the name of the company be restored.
9. It is observed from the records that the company was incorporated on 06.10.2010 and has not carried on any business activities since its incorporation, except for the one-time purchase of land in December 2010. The Appellant himself has admitted that the company has remained inactive and that no operations were undertaken thereafter. Mere ownership of immovable property, without any evidence of commercial transactions or revenue generation, cannot be construed as carrying on business or operations within the meaning of Section 252(3) of the Companies Act, 2013.
10. The company has also failed to comply with its statutory obligations by not filing annual returns and financial statements since its incorporation. The explanation offered by the Appellant regarding lack of awareness or coordination with professionals does not justify prolonged non-compliance extending for more than a decade. The provisions of the Act cast a continuing duty on the company and its directors to ensure timely filings, irrespective of operational activity. There is no explanation as to why the company did not commence its



business after incorporation. Once the company was incorporated, it was the statutory duty of its directors and shareholders to comply with the provisions of the Companies Act in letter and spirit. The non-action or inaction on the part of the company speaks volumes in itself.

11. The name of the company, M/s Shaktan Builders and Developers India Pvt. Ltd., was struck off on 16.06.2017 from the RoC, and the Appellant has failed to point out any serious irregularity or discrepancy in the process adopted by the RoC while striking off the name of the company. Though it is alleged that no opportunity of hearing was given to the Appellant, there is no evidence on record to show that the Appellant ever agitated any issue in this aspect at any point in time. Once the RoC issued notices before striking off the name of the company, it was the duty of the director or the company to appear before the RoC and explain the reasons for non-compliance with the statutory requirements. It is not the case of the Appellant that no notice was issued to them. Therefore, at this stage, the Appellant cannot be allowed to contend that no opportunity of hearing was given to them. It is for the first time that the Appellant has raised such an allegation; as such, the allegation is liable to be ignored.

12. The mere intention expressed by the Appellant in its appeal to regularize filings or revive the business at this stage cannot be a ground to restore the name of a company that has remained completely dormant since incorporation. The legislative intent behind Section 248 is to remove defunct companies from the Register, and restoration can be ordered only when there is credible evidence that the company was carrying on business or in operation at the time of strike-off. In this case, no such evidence has been produced.



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13. In view of the above discussion, this Tribunal does not find sufficient justification to order restoration of the name of the company. However, the remedy lies with the Appellant is under Section 248(8) of the Companies Act, 2013.
14. This Company Appeal(C/Act)/02/KOB/2025 stands **dismissed** and disposed of accordingly.
15. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
16. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

Sd /-
MADHU SINHA
(MEMBER TECHNICAL)

Sd /-
VINAY GOEL
(MEMBER JUDICIAL)

Signed this the 11th day of November, 2025.

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