**An application under- Section 252 of the Companies Act, 2013**

**FORM NO. NCLT. 9**

[See rule 72, 76, 82, 84, 88 and 154 and also General Form for all purposes if no specific form is prescribed under these rules and Forms]

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**
**NORTHERN REGION BENCH**

Company Application No ………………………. of 2017
‘in Company Petition No ……………………….. of 2017

In the matter of: An application under- Section 252 of the **Companies Act, 2013**

And

In the matter of: An application seeking restoration of the name of the company on the Register of Companies maintained by the Registrar of Companies, Rajasthan

And

In the matter of: **M/s. ………………………… Limited,**A company incorporated under the Companies Act,1956. and having its registered office situated at: …………………… …………. ……………. Represented through its Director Sri ………….. (DIN: 0…………)

…………Petitioner

**Versus**

Registrar of Companies, Rajasthan
C/6-7, 1st Floor, Residency Area,Civil Lines, Jaipur-302001

…………Opp. Party

**Details of Application/divetition:**

The humble petition of **M/s. ………………………**, the petitioner above named respectfully showeth:

**Particulars of the applicant/ petitioner/ appellant:**

**i. Name of the petitioner:**M/s. ……………… Limited

**ii**. **Address of registered office of the applicant/ petitioner/ appellant**: ………………………

**iii. Address of service of all notices**: ……………… & Associates, Company Secretaries, ……………….., New Delhi-1100……

**iv. Telephone/ Fax Number and e-mail address, if any:** ………… (of applicant); ………………. (of authorised representative)

**v. E-mail address:**……………..; and ……………com

**Particulars of the respondent:**

**i. Name of the respondent(s):**Registrar of Companies, Rajasthan

**ii. Office address of the respondent;**…………….

**iii. Address of respondent for service of all notices:** ……………

**iv. Telephone/Fax Number and e-mail address, if any. Phone**: ……………. **Email: ……………………**

Application /divetition/Appeal in the form of affidavit under Section 252 of the Act for seeking restoration of the name of the company **M/s. ……………….** on the Register of Companies maintained by the Registrar of Companies, Rajasthan

I, ……………….l (DIN: 0………..0), Director solemnly affirm and say as follows:

1. I the director of the above named company, and I have been a director of the company since 1st of March 2013.

**2. Facts of the order against which review is filed:**The Registrar of Companies, i.e. the Opp. Party herein, struck off the petitioner company’s name of the Register maintained by him, due to defaults in statutory compliances, namely, failure to file Financial Statements & Annual Return for the period 2013-14, 2014-15 & 2015-16 Consequently, the Registrar of Companies has initiated proceedings under Section 248 of the Companies Act, 2013, for the purpose of striking off the name of the company from the Register maintained by the Registrar of Companies, Rajasthan.

**3. The facts of the case are given below:**

i. The Petitioner Company has filed the present petition under Section 252 of the Companies Act, 2013, seeking restoration of the name of the company on the Register of Companies maintained by the Registrar of Companies, Rajasthan

ii. That**M/s. ……………….Limited**, was incorporated under the Companies Act, 1956/ on 2nd March 2012 vide CIN: …………………8096, as a Private Company Limited by Shares with the Registrar of Companies, Rajasthan, having its Registered office situated at Plot No. ……………………….. Rajasthan – 302…… and the authorised share capital of the Company is Rs. 1,00,000./- (Rupees one lakhs only)divided into 10,000 number of equity shares of Rs. 10 /- (Rupees Ten each) and the Issued, Subscribed & Paid Up Capital of the Company is Rs. 1,00,000/- (Rupees one lakh Only)divided into 10,000 number of equity shares of Rs. 10 /- (Rupees ten each). Copy of the Memorandum and Articles of Association of the Company and The Certificate Of Incorporation is annexed herewith and marked as Annexure-1.

iii. At present the Company is managed by 3 directors namely: Mr. ……….. Khandelwal (DIN: ………180), Mr. …………… (DIN: 001…………73) and Ms. …………… Sharma (DIN: 0518…………….18.).

iv. The Registrar of Companies, Rajasthan i.e. the Opp. Party herein, struck off the petitioner company’s name of the Register due to defaults in statutory compliances, namely, failure to file Financial Statements & Annual Return for the 2013-14, 2014-15 & 2015-16. Consequently, the Registrar of Companies initiated proceedings under [**Section 248**](https://taxguru.in/company-law/fast-track-exit-strike-off-under-section-248-of-companies-act-2013-read-with-companies-removal-of-name-of-companies-rules-2016.html) of the Companies Act, 2013, for the purpose of striking off the name of the company of the Register maintained by the Registrar of Companies.

v. That it is submitted that the Opp. Party has not followed the procedure prescribed under Section 248 (1) of the Companies Act, 2013, notices as required under Section 248 (1) were not sent and has now proceeded to issue notice under Section 248(5) publishing the name of the petitioner company in the Official Gazette. Copy of the list of companies containing the name of the applicant as issued by the Opp. Party under Section 248(5) of the Companies Act is annexed hereto and marked as Annexure-2. Copy of master data evidencing the struck of the name of the applicant is also attached along with.

vi. The petitioner states that the petitioner company has been active since incorporation and has also been maintaining all the requisite documentation, as per the provisions of the Companies Act, 2013.

vii. That it is submitted that the petitioner company did not receive any show cause notice, nor was it afforded any opportunity of being heard before the aforesaid action was taken by the Opp. Party.

viii. The petitioner avers that the accounts of the petitioner company were prepared and audited and that the company had engaged the services of a Company Secretaryto perform the task of filing the returns with the office of the Registrar of Companies and who did not filed the same and also did not reveal this fact to the Directors of the petitioner company. It is further submitted that it was only in September 2017, when the fact of non-filing of the returns and other documents with the Opposite Party, as well as the fact that the petitioner company’s name had been struck off the Register maintained by the Opposite Party, was known to the petitioner company.

ix. That the object of Section 252(3) of the Companies Act is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and to give them an opportunity of carrying on the business only after the Hon’ble Tribunal is satisfied that such restoration is necessary in the interests of justice.

x. That for the ends of justice, the present petition may be allowed, since the Company is carrying on its Business and operation.

xi. That the Petitioner submits that in the event of revival of the Company and restoration of the name of the Company in the Register maintained by the Opposite Party, the Petitioner Company shall file all outstanding statutory documents i.e. the financial statement &annual returns for the financial year from 2013-14, 2014-15 and 2015-16 along with the filing fees and the additional fee, as applicable on the date of actual filing and the certified copy of the Order of Tribunal for the restoration of the name of the company to the Register maintained by the Opposite Party etc.

xii. That, unless the present application is allowed and the name of the company is not restored on the Register of Companies maintained by the Registrar of Companies, the Petitioner as well as its shareholders shall suffer irreparable loss and hardship and will be highly prejudiced.

xiii. That the present petition is made bona fide and in the interest of justice.

**4. Jurisdiction** of the Tribunal: The petitioner declares that the matter of application/divetition/ appeal falls within the jurisdiction of the Tribunal.

**5. Limitation:**The applicant/ petitioner/ appellant further declare that the application/divetition/ appeal is within the limitation as prescribed in the provision of section 252 (3) read with section 433 of the Act.

**6. Matter not pending with any other Tribunal etc:**The petitioner further declares that the matter regarding this petition is not pending before any Tribunal of law or any other authority or any other Tribunal.

**7. Relief(s) sought**: In view of the facts mentioned in paragraph 3 above, the applicant/ petitioner/ appellant prays for the following reliefs) (Specify below the reliefs) sought explained the grounds for reliefs) and the legal provisions, if any, relied upon):

i. Restore the name of the Company in the Register of the Companies as maintained by the Registrar of Companies, Rajathan

ii. any other order as the Tribunal deems fit and proper in the best interest of the stakeholders of the Company.

8. Particulars in respect of the fee paid: An Amount of fees of Rs. ……. /- in the form of Demand Draft drawn ……………, …………… Branch, …………., having the Demand draft Number, ……. dated …., …., 2017, the Demand Draft is Enclosed in Annexure- 3.

**9. Details** **of Index**: An index containing the details of the documents to be relied upon is

**List of enclosures:**

|  |  |  |
| --- | --- | --- |
| **Sr. No.** | **Particulars** | **Annexure** |
| 1 | Copy of Memorandum and Articles of Association | **Annexure-1** |
| 2 | Copy of list of struck off companies issued by ROC, Rajasthan and master data evidencing the struck of the name of the Company. | **Annexure-2** |
| 3 | Evidence regarding payment of Fee | **Annexure-3** |
| 4 | Affidavit Verifying the Petition | **Annexure-4** |
| 5 | Memorandum of Appearance | **Annexure-5** |
| 6 | Copy of Board Resolution & Vakalatnama | **Annexure-6** |

Dated this ………. day of ………., 2017.
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
**(Signature of the petitioner)**

Solemnly affirmed before me at on this… day of ………., 2017.
**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**
**(Signature)**