

Co.Pet. 8/2011
BEFORE
THE HON'BLE MR. JUSTICE HRISHIKESH ROY

Heard Mr. K Goswami, learned counsel appearing for the petitioners. The Registrar of Companies (ROC), Shillong is represented by Mr. R Sharma, the learned Asstt. Solicitor General of India.

2. This application is filed under Section 560 of the Companies Act, 1956 (hereinafter referred to as 'the Act') for restoration of the name of the respondent No.1 i.e. Sadana Investment and Trading Company Pvt. Limited to the Register of Companies maintained under the ROC, Shillong and to rectify the Master Data by modifying the status of the petitioner No.1 from Struck Off to Active .

3. The petitioner contends that the action taken by the ROC is contrary to the procedure laid down under Section 560 of the Act since the notice of the intended action was issued only on 10.7.2007 (Annexure-E) and on the very day of the notice, the order was passed for striking off the name of the Company, from the Register of Companies.

4. In pursuant to the notice issued by this Court, Mr. R Sharma has obtained instructions and the learned Central Govt. counsel submits that the ROC does not object to restoration of the Company subject to filing of all the statutory return(s), pending since 31.3.2007.

5. Having regard to the procedure by which the name of the petitioner No.1 was struck off which was in clear violation of the procedure prescribed under Section 560 of the Act and the stand taken by the ROC, I am inclined to allow this petition.

6. Accordingly the name of respondent No.1 is ordered to be restored to the Register of the Companies maintained by the ROC, Shillong. But the restoration should be effected only after all the statutory return(s) pending since 31.3.2007 are filed. The petitioners undertake to complete the process on or before 5.1.2012.

7. Accordingly steps be taken by the petitioners to deliver a certified copy of this order to the ROC, Shillong in terms of Rule 93 of the Companies (Court) Rules, 1959 and the ROC will then take the consequential steps in accordance with the Act and the Rules.

8. The petition stands allowed accordingly. A copy of the written instruction dated 8.11.2011 sent by the ROC, Shillong to the Asstt. Solicitor General of India, shall be kept in the case record.