

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH- I
KOLKATA**

CP No. 107/KB/2025

In the matter of

An application under Section 252 (3) of the Companies Act, 2013.

And

In the matter of:

Shiv Shakti Ferro Products Private Limited (CIN: U27310WB1990PTC049479), a Company incorporated under the Companies Act, 1956 and having its registered office at Mahatma Gandhi Road, Siliguri -734005.

..... Struck Off

And

In the matter of:

Sanjay Kumar Agarwal, Member of Shiv Shakti Ferro Products Private Limited, residing at Mahatma Gandhi Road, Khalpara, Siliguri- 734005.

... Applicant

-Versus-

The Registrar of Companies, West Bengal - Ministry of Corporate Affairs, having its office at "Corporate Bhawan" Plot No IIIF/16 Action Area-III, Premises No- 050852 Akandakeshari, New Town, Rajarhat Kolkata- 700135 West Bengal

..... Respondent

Date of Pronouncement: 09/06/2026

Coram:

Smt. Bidisha Banerjee, Hon'ble Member (Judicial)

Cmde. Siddharth Mishra, Member (Technical)

Appearances:

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For the Petitioner:

Mr. Arun Kumar Jaiswal, Authorised Representative

For the Respondent:

Registrar of Companies, Office of the Registrar of Companies, West Bengal

ORDER

Per: Smt. Bidisha Banerjee, Hon'ble Member (Judicial):

1. Background of the Case & Submissions on Behalf of the Applicant

1.1. This Company Petition has been filed by Mr. Sanjay Kumar Agarwal one of the shareholders of M/s **Shiv Shakti Ferro Products Private Limited** u/s 252(3) of the Companies Act, 2013 for restoration of name of the Struck Off Company in the Register of Companies, maintained in the Office of the Registrar of Companies, West Bengal. It is stated that the name of the Company was **Struck Off on 13.10.2007**.

1.2. Shiv Shakti Ferro Products Private Limited (CIN Number: U27310WB1990PTC049479) was incorporated on 24th July 1990 as a Private Limited Company, limited by shares under the provisions of the Companies Act.

1.3. The Authorized Share Capital of the Company is Rs. 20,00,000/- (Rupees Twenty Lakh Only) and the Issued, Subscribed and Paid-up Equity Share Capital of the Company is Rs. 2,00,000 (Rupees Two Lakh Only) divided into 2,000 (Two Thousand Only) Equity Shares of Rs. 100/- (Rupees Hundred only) each.

1.4. Mr. Sanjay Kumar Agarwal the Applicant is one of the shareholders having 96.25 percent shareholding of the Company and has invested Rs. 1,92,500 in the Company.

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1.5. It is contended that the Company was incorporated to set up a factory of iron foundries, iron furnaces, iron rolling or re-rolling mill to manufacture ingot/ iron and steel pipes or tubes etc.

1.6. It is submitted that the Company has applied to West Bengal Financial Corporation for a business loan and the same has been approved by the West Bengal Financial Corporation this has been provided in Annexure A-5.

1.7. It is submitted that the company had purchased 3.51 Acres to set up the manufacturing units and has applied to various departments to get licenses/NOCs/Loan etc. However, the company did not get few licenses/NOC and most importantly the company did not get confirmation from the West Bengal State Electricity Distribution Company Limited for supply of subsidized electricity from the West Bengal State Electricity Distribution Company Limited. Despite the continuous efforts and communication with the departments concerned, the Company did not get the approval letter with respect to supply of subsidized electricity from the West Bengal State Electricity Distribution Company Limited. Hence the Company was not in a position to install its manufacturing unit.

1.8. As per Section 248(1) of the Companies Act, 2013 if a Company failed to file its Balance Sheet and Annual Returns for two immediately preceding financial years and has not made any application within such period for obtaining status of a dormant company under Section 455 , the registrar 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 Registrar 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 notice.

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1.9. It is submitted that as per Rule 3(2) of the Companies (Removal of Names of Companies from the Registrar of Companies) Rules, 2016 the registrar of Companies must give notice in writing under Section 560 of the Companies Act, 1956 in Form STK-1 which shall be sent to all the Directors of the Company, at the address available on record, by registered post with acknowledgment due or by speed post. The Company has not received any Letter from Registrar of Companies, West Bengal under section 560 of the Companies Act, 1956/ in Form STK-1 as required u/s 248(1)(c) of the Companies Act, 2013. Therefore, the Company was unable to submit any reply to the Registrar of Companies, West Bengal.

1.10. It is further submitted that without restoring the name of the Company in the Register of Registrar of Companies, West Bengal, the Company is losing the legal status/entity of the company by the company to continue or to carry on its business.

1.11. The Applicant further submits that the delay in filing the Annual Accounts and Annual Returns was unintentional. No mala-fide intention was behind the error of omission committed by the Company and its officials.

1.12. The Applicant states and submits that in the event of restoration of name of the Company in the Register maintained by the Respondent, the shareholders will take all necessary steps to make the Company compliant and file all statutory documents after getting the Order of Revival by the Hon'ble Tribunal.

2. Report of the RoC

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2.1. The RoC has submitted its report wherein it has stated that as per records maintained by the RoC, the name of the company has been struck off on 13/10/2007.

2.2. It is submitted by the RoC that the name of the petitioner company has been struck off since he had reasonable cause to believe that the company was not carrying on business or in operation since incorporation.

2.3. It is contended that the company had not filed Balance Sheets and Annual Returns since its incorporation hence the ROC had struck off the name of the Company.

2.4. Further the RoC submits that the Revenue from Operations for the time period FY 2001-02 to 2004-05 has been stated as nil, also the Bank Statement, Income Tax Return and photographs of the Registered office of the company have not been provided, but Bank statements has been provided in the Petition in Annexure A-9.

2.5. However, it has also been stated in the Report that if the petitioner agrees to file all pending returns post restoration of the name of the company, the Registrar shall not object to the said restoration. As such, it has been prayed that in case this Tribunal allows the petition for restoration of the name of the company, the Tribunal should issue directions to the Petitioner to conduct all pending AGMs and file all Annual Returns and Financial Statements of the company along with the legally mandated additional fee and/or penalty and/or fine with the RoC within a specified time period failing which, the RoC shall be at liberty to again strike off the name of the company and change its status to "Strike off" without any further notice to company or the petitioner.

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SL N O	FORM NO	DESCRIPTIONS	FY	NORMA L FEES	ADDITIONA L FEES	TOTAL
1	23AC	Balance Sheet	2001-02	400	268700	269100
2	20B	ANNUAL ACCOUNTS	2001-02	400	265700	266100
3	23AC	Balance Sheet	2002-03	400	268700	269100
4	20B	ANNUAL ACCOUNTS	2002-03	400	265700	266100
5	23AC	Balance Sheet	2003-04	400	268700	269100
6	20B	ANNUAL ACCOUNTS	2003-04	400	265700	266100
7	23AC	Balance Sheet	2004-05	400	268700	269100
8	20B	ANNUAL ACCOUNTS	2004-05	400	265700	266100
9	23AC	Balance Sheet	2005-06	400	268700	269100
10	20B	ANNUAL ACCOUNTS	2006-06	400	265700	266100
11	23AC	Balance Sheet	2006-07	400	268700	269100
12	20B	ANNUAL ACCOUNTS	2007-08	400	265700	266100
13	23AC	Balance Sheet	2007-08	400	268700	269100
14	20B	ANNUAL ACCOUNTS	2007-08	400	265700	266100
15	23AC	Balance Sheet	2008-09	400	268700	269100
16	20B	ANNUAL ACCOUNTS	2008-09	400	265700	266100
17	23AC	Balance Sheet	2009-10	400	268700	269100
18	20B	ANNUAL ACCOUNTS	2009-10	400	265700	266100
19	23AC	Balance Sheet	2010-11	400	268700	269100
20	20B	ANNUAL ACCOUNTS	2010-11	400	265700	266100
21	23AC	Balance Sheet	2011-12	400	268700	269100
22	20B	ANNUAL ACCOUNTS	2011-12	400	265700	266100



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23	23AC	Balance Sheet	2012-13	400	268700	269100
24	20B	ANNUAL ACCOUNTS	2012-13	400	265700	266100
25	23AC	Balance Sheet	2013-14	400	268700	269100
26	20B	ANNUAL ACCOUNTS	2013-14	400	265700	266100
27	AOC-4	Balance Sheet	2014-15	400	268700	269100
28	MGT-7	ANNUAL ACCOUNTS	2014-15	400	265700	266100
29	AOC-4	Balance Sheet	2015-16	400	268700	269100
30	MGT-7	ANNUAL ACCOUNTS	2015-16	400	265700	266100
31	AOC-4	Balance Sheet	2016-17	400	268700	269100
32	MGT-7	ANNUAL ACCOUNTS	2016-17	400	265700	266100
33	AOC-4	Balance Sheet	2017-18	400	248700	249100
34	MGT-7	ANNUAL ACCOUNTS	2017-18	400	245700	246100
35	AOC-4	Balance Sheet	2018-19	400	212200	212600
36	MGT-7	ANNUAL ACCOUNTS	2018-19	400	209200	209600
37	AOC-4	Balance Sheet	2019-20	400	175600	176000
38	MGT-7	ANNUAL ACCOUNTS	2019-20	400	172600	173000
39	AOC-4	Balance Sheet	2020-21	400	139500	139900
40	MGT-7	ANNUAL ACCOUNTS	2020-21	400	136500	136900
41	AOC-4	Balance Sheet	2021-22	400	103000	103400
42	MGT-7	ANNUAL ACCOUNTS	2021-22	400	100000	100400
43	AOC-4	Balance Sheet	2022-23	500	66500	67000
44	MGT-7	ANNUAL	2022-23	500	63500	64000

ACCOUNTS						
45	AOC-4	Balance Sheet	2023-24	400	30000	30400
46	MGT-7	ANNUAL ACCOUNTS	2023-24	400	27000	27400
TOTAL						10499000

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2.6. The RoC submits that the company is required to file the aforesaid pending statutory Return with RoC and the said filing will attract fees of Rs 1,04,99,000/- (Approx) including additional fees for delay filing.

2.7. It has further been submitted that this Tribunal may award cost in favour of the RoC for the time and effort spent in act of positive enforcement of the law.

3. Supplementary Affidavit/Rejoinder By the Petitioner.

3.1. The petitioner submits that they have attached bank statements with the filed petition and marked them as Annexure A-9 but they forgot to attach acknowledgement of Income Tax Return for the assessment years 1999-2000 and 2000-2001 and have thus attached these with the Supplementary Affidavit.

3.2. In respect to Point no 7 of the RoC report, the petitioner submits that they will file all the pending balance sheets and annual returns after getting the Order of Revival from the Hon'ble NCLT as well as change of status from "Strike Off" to "Active"

3.3. As such, the petitioner has prayed for restoration of name of the company in the register of companies maintained by RoC, West Bengal and further prayed for permission, so as to allow the company to file all pending statutory returns and financial statements within a time period specified by this Tribunal.

4. Analysis

4.1. We have gone through the case file carefully and perused the pleadings of the petitioner and the respondent, the documents placed on record, the arguments put forth by the counsel for the parties, and we shall now proceed to consider the present petition on its merits.

4.2. Upon the said contentions, the learned Authorized Representative for the Petitioner prays for passing of an Order for restoration of the name of the appellant company.

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4.3. In our view the Company had purchased 3.51 Acres of Land for its manufacturing unit. The most important requirement of the steel and ingot manufacturing is subsidized electricity, in order to get this subsidy the company had applied to West Bengal State electricity Distribution Company Limited but due to some approval formalities the company didn't receive approval letter for supply of electricity on subsidized rates. Hence the company did not start its commercial operation.

4.4. The present petition has been made within the period of limitation specified in Section 252(3) of the Companies Act, 2013.

4.5. The company owns land and has made repeated efforts to get the necessary approvals from the departments concerned. It would be prejudicial to the shareholders if the name is kept struck off as the applicant will suffer sizable loss and has to write-off a profitable investment in his personal portfolio.

4.6. Further, in view of the undertaking made by the Petitioner in its Petition and Rejoinder Affidavit that the company would comply with all statutory requirements, including filing of all pending annual returns and financial statements with the prescribed additional fees and penalties, within the time frame stipulated by this Tribunal we are inclined to allow the present petition.

5. Orders

5.1. In exercise of the powers conferred on the Tribunal under Section 252 of the Companies Act, 2013, the petition is allowed upon the following: -

- a) Registrar of Companies, West Bengal, the respondent herein, is directed to restore the original status of the petitioner Company

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as if the name of the Company had not been Struck Off from the Register of Companies with the resultant and consequential actions like changing status of petitioner Company from '**STRUCK OFF**' to '**ACTIVE**'.

- b) The petitioner Company is directed to file all pending statutory document(s) including Annual Statements and Annual Returns for the Financial Years 2001-02 to 2023-24, along with prescribed fees/ additional fee/fine as decided by Registrar of Companies, West Bengal within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, West Bengal.**
- c) The restoration of the Company's name is also subject to the payment of cost of **Rs.1,00,000/- (Rupees One Lakh Only)** through online payment in www.mca.gov.in under miscellaneous fee by mentioning particulars as "**Payment of cost for restoration of Company pursuant to Orders of NCLT, Kolkata Bench in C.P. No. 107/KB/2025.**
- d) The Petitioner is directed to deliver a certified copy of this Order with Registrar of Companies, West Bengal within thirty days of the receipt of this order.
- e) On such delivery and after due compliance with the above directions, the Registrar of Companies, West Bengal is directed to publish the Order in the Official Gazette under his office name and seal.
- f) This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company,

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and it will not come in the way of Registrar of Companies, West Bengal to take appropriate action(s) in accordance with law, for any other violations / offences, if any, committed by the petitioner company prior to or during the period the name of the Company remained struck off

6. The **C.P. No. 107/KB/2025** is disposed of accordingly.
7. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
8. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

Bidisha Banerjee
Hon'ble Member (Judicial)

Cmde. Siddharth Mishra
Hon'ble Member (Technical)

This Order signed on this, the 9th day of June, 2026.

RKM(LRA)