

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH- COURT III**

Company Appeal No.: 165/2023

*[Under section 252(3) of the Companies Act,
2013]*

In the matter of

**VIRGIN METALLIC CHEMICALS
PRIVATE LIMITED**

Having its registered office at:

25, Old Satta Gallikavi, Nirav Lane, 1st

Floor, Sheikh Memon Street,

Mumbai – 400002

[CIN: U24110MH1993PTC072449]

...Appellant

Versus

**THE REGISTRAR OF COMPANIES,
MUMBAI**

Having its registered office at:

100, Everest Building, Marine Lines,

Mumbai - 400002

...Respondent

Order delivered on: **10.06.2026**

Coram:

Hon'ble Smt. Lakshmi Gurung, Member (Judicial)

Hon'ble Shri Hariharan Neelakanta Iyer (Technical)

Appearance:

For Applicant: CS Ashish Lalpuria

For RoC : Ms. Garima Nagpal, AROC for ROC, Mumbai (VC)

Per: Ms. Lakshmi Gurung, Member (Judicial)

1. This appeal has been filed under Section 252(3) of the Companies Act, 2013 by a shareholder of Virgin Metallic Chemicals Private Limited (**'the Company'**) which was struck off by the Registrar of Companies

under section 248 of the Companies Act, 2013, seeking *inter alia* following prayers:

- b. *Issue notice to the Respondent and after hearing the parties allow the Company Petition directing the Registrar of Companies, Mumbai, Respondent to restore the name of the Petitioner Company in the Register of Companies maintained by the Registrar of Companies, Mumbai;*
- c. *Direct the Registrar of Companies, Mumbai to allow the Company to file the order of NCLT within requisite time, without filing e-form, in view of the fact that technically e-filing is not possible for the Company whose name has been struck off;*

Brief Facts

2. M/s Virgin Metallic Chemicals Private Limited was incorporated on 18.06.1993 with Registrar of Companies, Mumbai as a private limited company under the provisions of Companies Act, 1956. As per the information available on the Company Master, the registered office of the company is situated at 25, Old Satta Gallikavi, Nirav Lane, 1st Floor, Sheikh Memon Street, Mumbai – 400002 and the company has CIN: U24110MH1993PTC072449.
3. As per the Company Masterdata annexed as *Exhibit B*, the Authorised Share capital of the company is Rs.50,00,000/- (Rupees Fifty Lakh Only) divided into 5,00,000 (Five Lakh) shares of Rs.10/- each and the Paid up Capital of the Company is Rs.3,00,300/- (Rupees Three Lakh Three Hundred Only), divided into 30,030 (Thirty Thousand Thirty) shares of Rs.10/- each.
4. The details of directors and shareholders provided in the appeal are:

S.N.	Name of Shareholder	No. of shares	%	Designation
1	Mallika Madhukant Jhaveri	30,020	99.97	Director w.e.f. 18.06.1993

2	Jasmin Madhukant Jhaveri	10	0.03	Director w.e.f. 18.06.1993
	Total	30,030	100.00	

5. The Registrar of Company (**“ROC”**), Mumbai Struck off the name of the Company from the register of companies vide STK-7 dated 12.09.2018. Copy of STK-7 is annexed as *“Exhibit-C”*.

Submission of the Appellant

6. It is submitted that as required by the provisions of Section 248 of the Companies Act, 2013, the Appellant Company and its Directors did not receive STK-1 from the ROC about its intention to strike off the Company. Further, the respondent did not give any reasonable opportunity of being heard before the action of striking off the name of the Company was undertaken by the ROC. The Appellant Company always put its best effort to comply with the provisions of Companies Act, 1956 and Companies Act, 2013. Due to unavoidable circumstances, the Company has failed to file the Annual Returns and Financial Statements under section 92 and section 137 of the Companies Act, 2013. The Appellant has provided the following details in the appeal in the form of table:

(In INR)				
F.Y.	Revenue (Total Sale)	Net Profit	Long Term Borrowings (Other Borrowing)	Fixed Assets
2009-10	3,63,56,510	2,40,19,689	9,27,781	1,04,63,138
2010-11	2,16,57,684	2,37,83,770	97,18,913	1,03,92,809
2011-12	4,97,50,397	2,36,690	2,18,31,408	1,04,81,310
2012-13	4,50,33,322	4,66,995	2,58,52,699	1,04,81,310
2013-14	3,39,04,136	(29,95,112)	2,43,01,687	1,05,07,810

2014-15	3,39,62,914	(50,03,395)	75,59,175	1,05,90,135
2015-16	1,29,81,942	(98,40,591)	1,39,70,810	1,05,90,135
2016-17	27,29,812	(10,621)	1,29,85,158	1,05,90,135
2017-18	0	2,81,724	1,34,24,748	1,05,90,135
2018-19	0	4,78,684	1,37,36,748	1,05,90,135
2019-20	0	7,46,160	1,40,05,438	1,05,90,135
2020-21	0	(3,12,129)	1,41,25,438	1,05,90,135
2021-22	0	(1,44,012)	1,41,45,438	1,05,90,135

7. It is submitted that the Company has been actively carrying on its business operations since incorporation. But, due to poor market conditions the business activities of the Company got affected adversely, which resulted in to permanent failure in its business activities. It is further submitted that the directors are not wilful defaulters. However, due to non-filing of annual financial statements and annual returns inadvertently for the preceding years with the ROC, Mumbai, the ROC has presumed that the Company has ceased to carry on business for the financial years. The Appellants states that for the FY 2009-10 to 2021-22 financial statements were prepared in time and duly approved in the respective Annual General Meetings by the shareholders but the same could not be filed inadvertently and the delay in filing is unintentional. Copies of the Auditor Reports along with financial statements for the FY 2009-10 to 2021-22 are annexed as “*Exhibit-D (Colly)*”
8. It is further submitted that the company has a leasehold property situated at Plot No. 29, Kharvai, Badlapur (East), Ulhasnagar, Thane-421503. The book value of the said property along with structure is Rs.3,83,604/- and market value of the entire property is up to Rs.2.50 crores. Copy of the Lease Deed dated 03.12.1997 executed between Maharashtra Industrial Development Corporation (MIDC) and the Company is annexed as “*Exhibit-E*”.

9. It is submitted that the Company and its management remained involved in carrying out the business and thus remained operational since incorporation. It is further submitted that during the period of demonetization implemented by the Central Government across whole of India, no huge amount in cash was deposited in Company's Bank Account.
10. It is submitted that on restoration of the name of the Company in the register of companies, it would be possible for the Company to restart and continue its business operations smoothly as there are liabilities, further the cause of employment and the livelihood of its employees and workmen, contribution to economic exchange and add to growth of industry at the micro level, which would serve larger public interest.
11. It is submitted that by allowing the appeal, no prejudice shall be caused to third parties or the public at large and that, unless the present appeal is allowed and the name of the Company is restored on the register of companies maintained by the RoC, the Company, its members, employees as well as other stakeholders shall suffer irreparable loss and hardship and will be highly prejudiced since the Company, is willing to carry on business as a going concern on a continual basis.
12. It is lastly submitted that the petitioner Company shall file all outstanding statutory documents i.e. the financial statements & annual returns till date 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 of companies maintained by the Respondent.

ROC Report:

13. The ROC filed Report dated 22.11.2023, the relevant extract reproduced below:

“xxx

4. It is submitted that the company Virgin Metallic Chemicals Private Limited having CIN No. U24110MH1993PTC072449 which was incorporated with the office of the Registrar of Companies, Mumbai on 18TH June, 1993 has failed to comply with the statutory compliances under the Companies Act, 2013 by not filing its statutory returns for a continuous period of more than two years, hence the aforesaid company has been considered for striking off by the Registrar of Companies, Mumbai in a **suo-moto action** under the provisions of Section 248 of the Companies Act, 2013 and also in pursuance of the circulars issued by the Ministry of Corporate Affairs, Govt. of India, New Delhi from time to time.
5. It is submitted that after issuing **STK-1** notice to the Company and its directors informing the intention of the Registrar to strike off the name of the company on 11/09/2018 vide published in the newspapers date on 21/07/2018 and was published on the web site maintained by the Ministry and published in **Official Gazette on 14/09/2018** and in leading English Newspaper (Times of India) and a vernacular language newspaper (Maharashtra Times-Marathi) seeking objections against the proposed striking off of the name of company from the records of Registrar of Companies.
6. It is submitted that in absence of any representation against the proposed strike off action, the **Registrar struck off the name of the company on 11/09/2018** and the dissolution order was published on the web site of the Ministry vide **STK 7 on 12/09/2018**.
7. In view of the above, this Hon'ble Tribunal may reject the Petition as due process has been followed by the Registrar of Companies before striking off the name of the company from the Register of Companies. Further, Disqualification of Directors under section 164(2)(a) of the Companies Act, 2013 cannot be removed in this petition. However, if the Petitioner proves that it is carrying on business and this Hon'ble Tribunal is inclined to allow revival of the Company under section 252 of the Companies Act, 2013, the Hon'ble Tribunal may impose exemplary costs and kind give directions to the petitioner to:

- a) *Pay maximum cost of the total fine for the defaults of various section of the Companies Act, 2013 violated by the Company.*
- b) *File an order of the Hon'ble Tribunal with the Registrar of Companies within 30 days from the date of order.*
- c) *File all the pending statutory returns/compliances electronically as provided under various provisions of the Companies Act, 1956/Companies Act, 2013 within a specified time span as may be prescribed or fixed by this Hon'ble Tribunal.*
- d) *Make good the offences arising out of non-compliances of sections 92 & 137 etc., of the Companies Act, 2013 (sections 159 to 162 & 220 etc., Companies Act, 1956) and also make application under Section 441/454 of the Companies Act, 2013 for compounding/adjudication of the offences committed, in the interest of justice.”*

Discussions & Findings

14. Heard Ld. counsel for the appellant and representative of the RoC. Perused the appeal and various affidavits filed by the appellant.
15. During the course of the hearing on 19.03.2024, when the matter was heard at length, upon queries relating to business operations, Ld. counsel for the appellant sought liberty to file copies of Income Tax Returns (ITRs). Accordingly, the Appellant filed additional affidavit dated 18.04.2024 placing on record the copies of the ITRs from the Assessment Year 2007-08 to 2014-15. However, the Company was struck off on 12.09.2018 therefore ITRs for period upto Financial Year 2013-14 is on no avail to prove the business activities of the Company in the preceding two years.
16. During further hearing on 06.08.2024, this Tribunal passed the following Order:

“From the balance sheets of the company, we find that there are no business operations from 2017-18 onwards and the company is not carrying any business. Learned counsel for the applicant submits on the ground of justice the name of the company be restored. However, we are not satisfied, and the counsel seeks time to address on the issue. Upon perusing the acknowledgment of the income tax return, it is seen up to the year 2014-15 had been filed. However, no returns have been filed thereafter...”

17. Thereafter the appellant filed an additional affidavit dated 02.09.2024 stating that company has not evaded any tax as there were sufficient tax deducted at source from the other income. The Company has provided details of income/loss and TDS as follows:

F.Y	A.Y	Profit/ (Loss)	TDS
2014-15	2015-16	-50,03,395.00	1,23,610.00
2015-16	2016-17	-98,40,591.00	1,32,446.00
2016-17	2017-18	-10,621.00	1,25,316.00
2017-18	2018-19	2,81,724.00	1,25,168.00
2018-19	2019-20	4,78,684.00	1,24,026.00
2019-20	2020-21	7,46,160.00	1,28,344.00

18. The Affidavit further states that the Company had received a business proposal from M/s. Bushal Chemi-Pharma Private Limited, for the strategic partnership in the chemical and medical sector, and submits that the proposed partnership promises to be transformative venture with the potential for the long-term benefits for both organizations. Copy of business proposal dated 26.08.2024 is annexed to Additional affidavit.
19. The Company filed yet another affidavit dated of 13.04.2026. The Company has annexed thereto audited financial statements from FY 2022-23 to 2024-25. The Company also annexed copies of property tax bill payment dated 22.01.2026 for Rs. 23,098/- and for Rs. 38,756/-,

- electricity bill for the month of February 2026 for Rs. 8000/- and water bill for the month of February 2026 for Rs. 16500/-.
20. Further it is submitted that the company is fully committed to rectifying all past statutory defaults and complete all pending annual filings including Financial Statement and Annual Returns with the Register of Companies and the pending Income Tax Returns with the Income Tax Department upon restoration of its name in the registrar of companies maintained by Register of Companies.
 21. Though the appellant has challenged the process of striking off adopted by RoC stating that the Company and its directors did not receive STK-1 from RoC, however, after receipt of the RoC's report providing details of STK-1 dated 11.09.2018 and details of its publication in newspaper and publication on the web site in Official Gazette, the Appellant has not filed any rejoinder rebutting the same. The Appellant has not pressed this issue at the time of final hearing. Having examined the report of RoC and the facts of the present case, RoC has rightly struck off the name of the Company under section 248 of the Companies Act, 2013 as the Company did not file statutory returns and the financial statements and carried on business with blatant disregard to the law of the land. Hence, we do not accept the challenge to the process of striking off.
 22. Now coming on the merits whether the Appellant has made out a case for restoration.
 23. Upon examination of the financial statements and other documents annexed to the appeal following observations are made:
 - i. The Company filed its annual returns and financial statements with RoC only upto 31.03.2009. Thereafter the Company did not

file the statutory returns and the financial statements thereby violating the various provisions of applicable Companies Act.

- ii. The Company has annexed audited financial statements for the financial year 2009-10 to F.Y. 2021-22 with the appeal and for F.Y. 2022-23 to 2024-25 with the additional affidavit dated 13.04.2026. While examining the audited financial statements, it is noticed that Audit Report for Financial Statement ended as at 31.03.2012 (at page No. 68) and has been signed by Chartered Accountant Mr. Hiren M. Sheth with firm's registration No.129098W on 29.08.2011. This creates question on the genuineness of the audit report. However, other Financial Statements do not have such discrepancy. Anyway, the appellant to offer explanation to the competent authority while compounding of the offences committed by the directors of the company under the applicable Companies Act.
- iii. It is also noticed that outstanding sales tax payable as per the balance sheet for the FY 2022-23 is Rs. 1,66,765.83.
- iv. Though the Company did not comply with the provisions of Companies Act relating to filing of statutory returns and financial statements from 2009 onward, it continued to carry on its business and/or generate income from other sources till 31.03.2020 violating the provisions of applicable Companies Act.
- v. The Appellant has placed on record, business proposal for strategic partnership to carry on the business of the Company. Further, the Company has a leasehold land in its possession which is supported by latest copies of receipts for payment of property tax, electricity bill and water bill.

24. In **Calcutta Rubber Factory Pvt. Ltd. Vs. Registrar of Companies, Delhi and Haryana, (2019 SCC Online NCLAT 851)**, the Hon'ble NCLAT in order dated 06.12.2019 has held as follows:

“11. The Company is having a lease hold plot allotted by HUDA and the appellant company undertakes to file the returns and the financial statements after the period 2012-2013. The company was carrying on business but was running into losses which accumulated to Rs. 630589/- from the year ending 31st March, 2013 and loss of Rs. 3500/- and Rs.3500/- from the year ending as on 2016-17, 2017-18. From these facts it cannot be said that the company is not carrying on any business.

12. From the above discussions and observations we have come to the conclusions that it would be just that the name of the company is directed to be restored.

25. In **Tahir Vasanali Isani Vs. Registrar of Companies, Goa, Daman and Diu, Company Appeal (AT) No.56/2025** the Hon'ble NCLAT in order dated 11.08.2025 held as follows:

“9. Thus from the above facts, we find the appellant company owns a substantial valued property as is stated in para 7 above and in case the company's name is not restored, it would then result in an irreparable loss and injury to the appellant as the fixed asset of the company worth Rs.6 crores in the year 2008 itself, would become a deadlock and be a complete waste, which shall, of course, would be contrary to the public policy, especially when such property is free from all encumbrances.”

26. Considering the facts that:
- a) As per the latest financial statement placed on record, there are assets and liabilities of the Company.
 - b) The Company has lease hold property in its possession, supported by latest property tax bill, electricity bill and water charges bill.

- c) The Company has business proposal for re-starting its business.
- d) The Company is willing to pay its admitted liabilities.
- e) The Company is willing to rectify all pending statutory compliances.

following order is passed:

ORDER

- 27. Upon considering the facts and circumstances of the present case, this Tribunal is of the view that, it would be just and fair to order restoration of the name of the company in the Register of Companies maintained by the ROC.
- 28. Further, considering that the Company continued its business without complying the laws of the land and in particular, violating the provisions of applicable Companies Act, it would be appropriate to put the Company to cost of Rs. 2,00,000/-.
- 29. The ROC shall give effect to this Order only after perusal of the compliance of cost imposed.
- 30. Accordingly, the restoration of the Company's name to the Register of Companies maintained by the ROC, is hereby ordered, with a direction that the Company shall comply with the provisions of the Companies Act, 2013 and file all the required Forms and statutory compliances within 60 days from restoration of its name in the Register of Companies maintained by ROC.
- 31. It is also noticed that outstanding sales tax payable as per the balance sheet for the FY 2022-23 is Rs. 1,66,765.83. Upon restoration, the Company shall discharge its admitted tax liabilities in accordance with law.

32. This order is confined to the violation, which ultimately led to the action of striking of the Company, and it will not come in the way of ROC to take appropriate actions(s) in accordance with law for violation/offense, if any, committed by the appellant company prior to or during the striking off the Company.
33. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.
34. Company Appeal No. 165/MB/2023 stands disposed of.

“File to be consigned to Record”

Sd/-
HARIHARAN NEELAKANTA IYER
Member (Technical)
---/Aalim/---

Sd/-
LAKSHMI GURUNG
Member (Judicial)