IN THE NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH, PRAYAGRAJ

CP No.69/ALD/2024

(Under Section 252(1) of the Companies Act, 2013)

<u>IN THE MATTER OF:</u>

Through its Director and Shareholder:

1. **Uzma Rashid**

   Director and Shareholder of:
   M/s Xclent Landway Private Limited
   D/o Badre Alam,
   R/o 4/5, KDA Colony, Jajmau, Kanpur, U.P.- 208010

2. **Rashid Jamal,**

   Director and Shareholder of:
   M/s Xclent Landway Private Limited
   S/o Ahmad Ali,
   R/o 4/5, KDA Colony, Jajmau, Kanpur, U.P.- 208010

………. APPELLANTS

Versus

1. **Registrar of Companies, Kanpur,**
   Westcott Building, The Mall,
   Kanpur Nagar, U.P.- 208001

2. **Income Tax Department**
   Aaykar Bhawan, Kanpur, U.P.- 208001

……………. RESPONDENTS

Order Pronounced On:17.07.2026

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Coram:

Mr. Praveen Gupta : Member (Judicial)

Mr. Ashish Verma : Member (Technical)

Appearances:

Sh. Vipin Kumar Khushwaha *: For the Petitioner*

None *: For the ROC*

Sh. Amit Mahajan, Sr. S.C. *: For the IT Deptt.*

ORDER

1. This Appeal has been filed on 05.11.2024 by Uzma Rashid, shareholder/Director (hereinafter referred as 'the Appellant No.1') and Rashid Jamal, shareholder/Director (hereinafter referred as 'the Appellant No.2') of M/s XCLENT LANDWAY PRIVATE LIMITED (*hereinafter collectively referred to as* "the Appellants") under Section 252(1) of the Companies Act, 2013 (*hereinafter referred as "*the Act") praying for restoration of the Company's name i.e. M/s XCLENT LANDWAY PRIVATE LIMITED in the Register of Companies maintained by the Registrar of Companies, Uttar Pradesh (*hereinafter referred as "*ROC/Respondent No.1"), which at the present is being shown in the register of the companies maintained by ROC as struck off.

2. M/s XCLENT LANDWAY PRIVATE LIMITED (*hereinafter referred to as "Appellant* Company") was incorporated on 12.10.2017 under the Companies Act, 2013, bearing CIN:-U70109UP2017PTC097797. The Registered Office of the Company is at ROOM No. 14, 37/17, ROLAND COMPLEX, FIRST FLOOR, *WESTCOTT* BUILDING, THE MALL, Kanpur, Uttar Pradesh, India, 208002 and hence this Tribunal has jurisdiction to decide this Appeal for the restoration of the name of the Appellant company.

3. The Company is engaged in acquiring land and real estate and constructing buildings and colonies theron. The Authorised Capital of the Company is Rs. 10,00,000/- divided into 1,00,000 equity Shares of Rs. 10 each. The issued, subscribed *and* paid-up capital is Rs. 1,00,000/- divided into 10,000 equity Shares of Rs. 10/- each. Appellant No. 1 and Appellant No.2 hold 500 shares each in the Appellant Company.

4. The *Appellants* submit that the name of the company was struck off by the Respondent No.1/ ROC on 08.06.2022 due to non-filing of Annual Returns and Balance Sheets since the year 2019.

5. The Appellant states and fairly admits that the company is in operation and the financial *statements* could not be filed from 2019 to 2023, due to wrong advice and guidance from the professional engaged for filing of statutory returns.

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6. The *Appellant* further submits that the requisite documentation as per the Companies Act, 2013, is being maintained by the Company and is now ready to be filed with ROC.

7. The *Appellant* has also annexed true copies of Audited Balance Sheets and Profit and Loss accounts of the Company for the Financial Years ending on 31.03.2020 to 31.03.2022 as Annexure No.5 (Colly) to the present Appeal. As per the Balance Sheet of the Appellant Company as on 31.03.2022, the Company continues to reflect Inventories at Rs. 94,62,700/-, cash and cash equivalents of Rs. 5,83,449.37/- and trade payables of Rs. 1,02,47,140/-.

8. In view of the facts and circumstances of the case as explained above, the *Appellant* has prayed to pass an appropriate order in terms of Section 252 (1) of the Companies Act, 2013 for restoring the name of the Appellant Company in the Register of Companies.

9. After considering the above Appeal, notices were issued to ROC and the Income Tax Department calling for their reports to satisfy ourselves whether restoration of the company would be in the interest of justice and in the public interest and to determine whether the Appellants are genuinely interested in running the company after its restoration and the defaults on account of which, the company has been struck off can be considered inadvertent or deliberate.

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10. The *ROC*/Respondent No.1 has failed to file his reply even after giving multiple opportunities and after giving the last opportunity to file his report within 10 days vide order dated 02.07.2026 eventually, his right to file a report has been struck off.

11. The *Income* Tax Department (hereinafter referred to as 'Respondent No.2') filed its reply/report vide diary no. 306 dated 06.02.2026, stating that the following demands are outstanding against the Appellant company as per ITBA and CPP portal of the Income Tax Department:

S. No.	A.Y.	Total Income	Date of filing	Filed u/s	Valid / Invalid	Demand
1.	2024-25	Rs.1,88,290/-	16.11.2024	139(4)	Valid	Rs.56,830/-
2.	2023-24	Rs.1,87,130/-	16.11.2024	139(8A)	Valid	0
3.	2022-23	Rs.1,45,940/-	28.11.2022	139(5)	Valid	Rs.53,380/-
4.	2021-22	Rs.3,810/-	27.11.2022	139(8A)	Valid	Rs.2,610/-
5.	2020-21	Rs.2,720/-	27.11.2022	139(8A)	Valid	Rs.2,540/-
6.	2019-20	Not filed	-	-	-	-
7.	2018-19	0	14.02.2018	139(4)	Valid	0

12. With *respect* to the aforementioned demand, Ld. Counsel for the Appellants undertakes, during the course of hearing on 09.07.2026, as follows:

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"3. Ld. Counsel representing the Petitioner states that he would be paying the demand as raised by the Income Tax Department within a period of one week and an affidavit to that effect would be filed within a period of one week "

13. In compliance of the aforesaid, Appellants have filed a supplementary affidavit dated 14.07.2026, wherein they state that all the outstanding dues as on 12.07.*2026* have been paid through relevant challans on the Income Tax Portal.

14. We have heard the Ld. Counsel representing the parties and perused the materials placed on record. The Appeal is filed on 05.11.2024, i.e. within three years of the date of striking off i.e. 08.06.2022 by the ROC. Thus, the Appeal is well within the period of limitation as provided under Section 252(1) of the Companies Act, 2013. It is also to be noted that neither the Respondents nor Appellants were able to produce STK-7 before us.

15. After *examining* all the documents filed during the course of this appeal proceeding and hearing the Ld. Counsel for the parties, we are satisfied that the Struck off Company has certain assets which it is going to utilize for the business of the company, and thus justified the prayer made in the appeal for the restoration of its name in the Register of Companies. Merely to disallow restoration on grounds of its failure to file annual returns and make statutory compliance would neither be just nor equitable. As per several decisions of

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various Courts, it should only be in exceptional circumstances that Courts should *refuse* restoration where the company has been struck off for its failure to file annual return if it is found that the struck off company has no intention or resources to run the business.

16. Considering the facts and circumstances of the case and the response as discussed in the report from the Income Tax Department connected with the *functioning* of the companies, wherein it has shown a list of demands outstanding against the appellant company. The default is only with regard to non-filing of statutory documents, i.e., Balance Sheet and Annual Returns with ROC since the Financial year 2019. Therefore, we allow the instant Appeal to the extent of directing the ROC, Uttar Pradesh to restore the name of the Appellant Company on the Register of Companies 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, changing the status of the Appellant Company from "struck off" to "active" and take such further action against the Appellant Company in accordance with the statutory provisions.

17. The restoration of the Company's name will be subject to the payment of the cost for *restoration* of the Company amounting to Rs. 20,000/- to be paid through online payment in www.mca.gov.in under miscellaneous fees by

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mentioning particular as "Payment of cost for restoration of the company pursuant to orders in Company Petition No. 69/ALD/2024" and also, to make payment of Rs. 20,000/- to the Prime Minister National Relief Fund.

18. This Appeal is disposed of on the terms directed above. The ROC shall give effect to this order only after perusal of the compliance report on the payment of the cost imposed as mentioned above. After due compliance with the above directions, the ROC, Uttar Pradesh shall publish the order for restoration of the name of the company in the Official Gazette under its office name and seal. The Company is directed to file all the statutory documents including Annual Accounts and Annual Returns along with the prescribed fees and additional fees as ordered by the ROC, Uttar Pradesh as applicable under the Companies Act, 2013 within 45 days from the date on which its name is restored on the register of companies maintained by the Registrar of Companies, Uttar Pradesh. The Appellant Company after restoration shall also fulfil all the other relevant statutory compliances, such as under the Companies Act, 2013, the Income Tax Act, 1961[now the Income Tax Act, 2025], etc. Necessary action may be taken by the concerned Assessing officer of the company under the provisions of the Income Tax Act, 1961[now the Income Tax Act, 2025] for getting any revised income tax return filed by the Appellant Company after its

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restoration if the same is required for making of any rectification as undertaken by the Appellant Company and also verify the outstanding income tax demands as claimed to have been paid by the appellant company are paid or not and accordingly, take necessary action. This order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of the Registrar of the Companies, Uttar Pradesh or any other concerned Government Authority to take appropriate action(s) in accordance with law, for any other violations/offences, if any, committed by the Appellant company prior to or during the period the name of the Company remained struck off.

19. The Appellant Company is directed to deliver a certified copy of this order with *ROC*, Uttar Pradesh and the Principal Chief Commissioner of Income Tax Lucknow (U.P. East), Uttar Pradesh, being the nodal officer within 30 days of the receipt of the order with the request to forward this order to concerned Assessing Officer of the Appellant Company.

20. The *Registry* is directed to send copies of the order forthwith to all the parties in the matter through e-mail.

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21. A *certified* copy of the order to be issued upon making an application by any concerned party with all requisite formalities.

22. *Accordingly*, **Company Petition No. 69/ALD/2024** is hereby allowed.

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Ashish Verma	**Praveen Gupta**
Member (Technical)	**Member (Judicial)**

Date:17.07.2026