$~16 to 19 & 21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010113052019**

\+ W.P.(C) 1646/2019

SH. SANJEEV GHEI .....Petitioner

Through: Mr. Prabhat Kumar Sahu, Advocate.

versus

INCOME TAX OFFICER WARD 12 (2), NEW DELHI .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Yojit Pareek, Mr. Mohit Kumar Gupta, JSCs.

17

\# **CNR No. DLHC010247332022**

\+ W.P.(C) 10058/2022

MANJINDER SINGH DALE .....Petitioner

Through: Mr. S. Krishnan, Adv.

versus

INCOME TAX OFFICER & ANR. .....Respondents

Through: Mr. Sunil Agarwal, SSC with Ms. Ankita Pandey & Mr. Avijit Dikshit, JSCs.

18

\# **CNR No. DLHC010035852022**

\+ W.P.(C) 1156/2022

KAUSHIK KUMAR GUPTA .....Petitioner

Through: Mr. Vikas Jain, Mr. Hardik Jayal & Mr. Paras Gilhotra, Advocates.

versus

INCOME TAX OFFICER AND ORS .....Respondents

Through: Mr. Indruj Singh Rai, SSC with Mr. Rahul G. Tanwani, Mr. Rahul Singh, JSCs, Mr. Gaurav Kumar & Mr. Nandhaa Kishore, Advs.

19

\# **CNR No. DLHC010144902022**

\+ W.P.(C) 6069/2022

JAGMOHAN GARG .....Petitioner

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

Through: Ms. Shruti Manchanda, Advocate.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Abhishek Maratha, SSC with Mr. Apoorv Agarwal, JSC.
Mr. Vedansh Anand, SPC with Mr. Shivam Kumar, GP

21

\# **CNR No. DLHC010058122022**

\+ W.P.(C) 2230/2022

AJAY THAKKAR (ON BEHALF OF M/S NICCO POWER PROJECTS PVT LTD SINCE DISSOLVED) ....Petitioner

Through: Mr. Nagesh Behl, Mr. Mukul Rathore, Advs.

versus

ITO WARD 18(3) DELHI .....Respondent

Through: Mr. Anurag Ojha, SSC with Mr. V.K. Saksena, JSC & Ms. Hemlata Rawat, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE DR. JUSTICE ADITI CHOUDHARY

O R D E R

% 17.11.2026

In view of the notification no.110/ G-4/Genl.-I/DHC dated 11.11.2026, the matters listed on 16.11.2026 were directed to be listed today i.e., 17.11.2026.

1. All these writ petitions involve broadly common facts and a common question of law – whether, the respondents can initiate proceedings and/or pass assessment order and then enforce recovery from the company or Directors of the Company, name whereof had been struck off under the provisions of Section 560 of the Companies Act, 1956 *(hereinafter referred to as 'the Act of 1956)* or Section 248 of the Companies Act, 2013 *(hereinafter*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

referred to as ‘ the Act of 2013’)?

2. Learned counsel for the petitioners submitted that indisputably, the name of the Companies stood struck off by the NCLT or by the Registrar of Companies under the relevant provisions of law, much before the Assessing Officer initiated the impugned proceedings or passed the assessment orders under challenge.

3. They argued that since the proceedings have been kickstarted after the companies were dissolved and their name were struck off, the proceedings are *void ab-initio* and the impugned assessment orders and consequential or incidental proceedings are liable to be declared void.

4. Learned counsel for the respondents, on the other hand, relied upon provisions of Section 250 and Section 248(5) & (7) of the Act of 2013 and Section 560(5) proviso (a) of the Act of 1956 and submitted that simply because the name of the company has been struck off, the liability of the company or its erstwhile directors do not cease to exist, more particularly when the same relates to the period prior to its dissolution.

5. Learned counsel for the respondents relied upon judgment of Hon'ble the Supreme Court in the case of ***Commissioner of Income Tax, Jaipur vs. Gopal Shri Scrips Private Limited***, reported in **(2020) 7 SCC 654** and the judgment of a Coordinate Bench of this Court dated 17.11.2022 rendered in the case of ***Ravinder Kumar Aggarwal*** (**W.P.(C) No. 7122/2019)** to contend that the respondents can proceed against the petitioner and recover the amount in question.

6. In rejoinder, learned counsel for the petitioners submitted that in most of the cases, the order of the competent authority i.e. National Company Law Tribunal (NCLT) striking off the name has attained finality – in some cases

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

the application for revival filed by the respondents has been rejected or, no application has been filed by the respondents.

7. Heard learned counsel for the parties.

8. It will not be out of place to reproduce Sections 250 & 252 of the Act of 2013 and Section 560 of the Act of 1956:

Section 250: Effect of company notified as dissolved.

Where a company stands dissolved under section 248, it shall on and from the date mentioned in the notice under sub-section (5) of that section cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

252. Appeal to Tribunal.—

1) *Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:*

   Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned:

   Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

2) *A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

3) *If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section (5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons 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.*

560. Power of Registrar to strike defunct company off register .-

1) *Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.*
2) *If the Registrar does not within one month of sending the letter receive any answer thereto, he shall, within fourteen days after the expiry of the month, send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that, if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Official Gazette with a view to striking the name of the company off the register.*
3) *If the Registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Official Gazette, and send to the company by registered post, a notice that, at the expiration of three months from the date of that notice, the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

4) *If, in any case where a company is being wound-up, the Registrar has reasonable cause to believe either that no Liquidator is acting, or that the affairs of the company have been completely wound-up, and any returns required to be made by the Liquidator have not been made for a period of six consecutive months, the Registrar shall publish in the Official Gazette and send to the company or the Liquidator, if any, a like notice as is provided in sub-section (3).*
5) *At the expiry of the time mentioned in the notice referred to in sub-section (3) or (4), the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Official Gazette; and on the publication in the Official Gazette of this notice, the company shall stand dissolved:Provided that-(a)the liability, if any, of every Director, [* * *] manager or other officer who was exercising any power of management, and of every member of the company, shall continue and may be enforced as if the company had not been dissolved; and(b)nothing in this sub-section shall affect the power of the [Tribunal] [Substituted by Act 11 of 2003, Section 114, for " Court" .] to wind-up a company the name of which has been struck off the register.*
6) *If a company, or any member or creditor thereof, feels aggrieved by the company having been struck off the register, the [Tribunal] [Substituted by Act 11 of 2003, Section 114, for " Court" .], on an application made by the company, member or creditor before the expiry of twenty years from the publication in the Official Gazette of the notice aforesaid, may, if satisfied that the company was, at the time of the striking off, carrying on business or in operation or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register; and the [Tribunal] [Substituted by Act 11 of 2003, Section 114, for " Court" .] may, by the order, give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.*
7) *Upon a certified copy of the order under sub-section (6) being delivered to the Registrar for registration, the company shall be deemed to have continued in existence as if its name had not been struck off.*
8) *A letter or notice to be sent under this section to a company may be*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

addressed to the company at its registered office, or if no office has been registered, to the care of some Director, [* *] [The words " managing agent, secretaries and treasures " omitted by Act 53 of 2000, Section 212 (w.e.f. 13.12.2000.] manager or other officer of the company, or if there is no Director, [* * *] [[The words " managing agent, secretaries and treasurers" omitted by Act 53 of 2000.Section 212 (w.e.f. 13.12.2000).]] manager or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.*

9) *A notice to be sent under this section to a Liquidator may be addressed to the Liquidator at his last known place of business.*

9. Having heard learned counsel for the parties and upon going through the above quoted provisions of law, we are of the view that the respondents can recover the amount from the company or its director in accordance with law, which has been created on the date of dissolution and in a given case, proceedings under Section 148(2) of the Income Tax Act, 1961 can be initiated, however, after moving an application for revival of the company's name in accordance with law.

10. But the legal position is trite that unless the name of the company is revived in accordance with law, the proceedings cannot take place. Similar is the legal position clarified by the CBDT as per its Circular No. F-225/423/2017-ITA-II dated 29.12.2017 followed by Circular dated 18.04.2018.

11. We are, therefore, of the view that the only course available for the respondents is to approach NCLT / NCLAT to apply for revival of company's name in accordance with law or take other appropriate remedies for such purpose. Unless such proceedings are taken and the company's name is revived in accordance with law, the liability against the company cannot be

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02

enforced.

12. For abundant caution, we may clarify that in case the liability has been created prior to the date of dissolution, the respondents can proceed against the erstwhile directors in accordance with law, as per the provisions of Companies Act read with Section 179 of the Income Tax Act, 1961, because there is no impediment in proceeding against the erstwhile directors of a dissolved company.

13. All these writ petitions are, therefore, disposed of by declaring that the assessment orders/reassessment orders passed against the companies shall be kept in abeyance and shall not be enforced unless by a validly passed order by a Competent Authority, the name of the assessee-company is/are revived.

14. In the event of name of the petitioner-company being revived, the assessing officer shall issue a demand notice of 30 days to the petitioner companies or their erstwhile directors seeking to recover the amount so due. The rights of the petitioner/assessee to challenge the assessment orders impugned in the present writ petition on all grounds shall stand revived.

15. It is hereby made clear that the petitioner shall be free to raise all pleas taken in the present writ petition or taken in the appeal, as we have not pronounced upon merit of the contentions raised by the petitioner in these writ petitions.

DINESH MEHTA, J.

ADITI CHOUDHARY, J.

NOVEMBER 17, 2026/*nk*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/11/2026 at 22:08:02