NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

11. APPEAL/54(MB)2025

IN THE MATTER OF

Deepak Ashutosh Bharadwaj … Petitioner

Vs

Registrar Of Companies Mumbai … Respondent

U/s 252 (3) of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 06.01.2026

CORAM:

SH. MOHAN PRASAD TIWARI
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the AROC Mumbai: MNL. Jyotsna, AROC, Mumbai (VC)

For the Respondent:

ORDER

APPEAL/54(MB)2025- The above APPEAL/54(MB)2025 is listed for pronouncement of order. The same is pronounced in open Court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

Sd/-
MOHAN PRASAD TIWARI
Member (Judicial)

//*Avdhesh*//

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT – V

Company Appeal No. 54/MB/ 2025

Under Section 252(3) of the Companies Act, 2013

In the matter of

RADIANT INN PRIVATE LIMITED

(Company incorporated under the Companies Act, 1956) Plot No. 126, Flat No. 101, First Floor, Prajakta Pinnacle, Telecom Nagar, Nagpur-440022, Maharashtra, India.

DEEPAK ASHUTOSH BHARADWAJ

G-1 Ravi Palace, Plot No. 25, Talmale Layout,
Trimuty Nagar, Nagpur - 440022
Email id: rlubesdeepak@hotmail.com
Mobile No: 9822278954.

...Appellant no. 1

SUHANI DEEPAK BHARADWAJ

G-1 Ravi Palace, Plot No. 25, Talmale Layout,
Trimuty Nagar, Nagpur - 440022
Email id: suhanibharadwaj9822@gmail.com
Mobile No: 9822463344.

...Appellant no. 2

Versus

The Registrar of Companies, Mumbai

100, Everest, Marine Drive, Mumbai-400002.

...Respondent

Order pronounced on: 06.01.2026

Coram:

Hon'ble Sh. Mohan Prasad Tiwari, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearances:

For the Appellant: CS Vijay Tiwari (PH)

For the ROC Mumbai: - Ms. Apoorva (AROC)(VC)

ORDER

1. The present Company Appeal has been filed under section 252(3) of the Companies Act, 2013 by **Mr. Deepak Ashutosh Bhardwaj and Suhani Deepak Bhardwaj**, Shareholders and Directors of Radiant Inn Private Limited, seeking restoration of the Company's name in the Register of Companies maintained by ROC, Mumbai which had been struck off by the RoC vide STK-5 notice dated 19.07.2018 and STK-7 Notice no. ROC-MUM/SECTION248/2ND Drive/STK-7/752412.09.2018.

Brief Facts

2. Radiant Inn Private Limited (hereinafter referred to as the "***Company***") earlier named as Chaitanya Institute of Medical Science Pvt. Ltd. was incorporated on 28.02.2008 bearing CIN: U55101MH2008PTC179562 and having registered office at Plot No. 126, Flat No. 101, First Floor, Prajakta Pinnacle, Telecom Nagar, Nagpur-440022, Maharashtra, India.

3. The Authorized Share Capital of the Company is Rs. 1,00,000/- (Rupees One Lakhs only) divided into 10,000 (Ten Thousand) equity shares of Rs. 10/- (Rupees Ten only) each and the Paid-Up Share Capital of the Company is Rs. 1,00,000/- (Rupees One Lakhs only) divided into 10,000 (Ten Thousand) equity shares of Rs. 10/- (Rupees Ten only).

4. The Appellant Company has its registered office within local limits from Harde House, Resham Baug, Near RSS Headquarters, Nagpur–440009 to Plot No. 126, Flat No. 101, First Floor, Prajakta Pinnacle, Telecom Nagar, Nagpur–440022, with effect from 02.02.2015.

5. As per the Memorandum of Association, the Company can carry on Business as Hoteliers, Hotel Managers and Operators, Caterers, Refreshment Room and Lodging House Keepers, providing Lawn/Hall for Marriages and Parties and also purchase, erect, acquire, equip, operate, manage or deal in Hotels, Lodging Houses of every kind including all the conveniences, amenities, and facilities adjunct thereto, in India or in other part of the world.

6. The Company executed an Agreement to Lease with the Maharashtra Industrial Development Corporation (MIDC) for development of Plot No. P-77, admeasuring 4,000 sq. mtrs., in the Butibori Industrial Area within the village limits of Rengapur, Nagpur. However, due to non-filing of annual financial statements and annual returns for the preceding Two Financial Years *viz.* for the period ended 31st March, 2015 and 31st March, 2016 with the Registrar of Companies, Mumbai, the Respondent took the action of striking off its name.

7. The company has Annexed Audited Balance Sheet, Statement of Profit and loss and schedules thereto, details of which are extracted in the table below:

(IN INR)				
F.Y.	**Inventory**	**Short-Term Borrowings**	**Cash-In-Hand**	**Expenses**
31.03.2014	90,81,876	68,16,590	3,01,295	-
31.03.2015	64,98,750	52,30,000	92,221	31,61,903
31.03.2016	64,98,750	52,30,000	77,593	30,108
31.03.2017	64,98,750	52,30,000	63,129	29,944

31.03.2018	64,98,750	52,30,000	53,129	25.480
31.03.2019	64,98,750	52,30,000	43,129	19,980
31.03.2020	64,98,750	52,30,000	35,629	7,500
31.03.2021	64,98,750	52,30,000	28,129	7,500
31.03.2022	64,98,750	52,30,000	20,000	8,000
31.03.2023	64,98,750	52,30,000	20,000	8,000
31.03.2024	64,98,750	52,30,000	31,000	6,000

8. It is submitted that for the FY 2014-2015, FY 2015-2016, FY 2016-2017, FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21 FY 2021-22, FY 2022-23, and FY 2023-24 were duly prepared in time, approved by the Board, and adopted in the respective Annual General Meetings by the members of the Company. However, the same could not be filed with the Registrar of Companies, Mumbai inadvertently and the delay in filing is unintentional.

9. M/s Radiant Inn Private Limited acquired, as lessee from MIDC, Plot No. P-77 admeasuring 4,000 sq. mtrs. in the Butibori Industrial Area within the village limits of Rengapur, Nagpur, for development and that the Company has active Bank Account no. 1472002100027240 at Punjab National Bank, Nagpur, Khamla Branch, Maharashtra, India. Further, the Company has duly filed the Income Tax Returns for the Assessment Years 2014-15 to 2024-25 with the Income Tax Department.

10. It is submitted that, the Strike off the Company by the Registrar of Companies, Mumbai is not justified and will causes irreparable loss to the Applicant Company, its business, employees and all the stakeholders therein. The object of Section 252(3) of the Companies Act is to give a chance to Appellant Company, its members and creditors to revive the company which has been struck off by the Registrar of Companies and to give them an opportunity of carrying on the business

only after the Tribunal is satisfied that such restoration is necessary in the interests of justice.

11. The Appellants have further undertaken that in the event of revival of the Appellant Company and restoration of name, the Company shall proceed to file all statutory documents with the RoC Mumbai viz. the financial statement and annual returns for the period ended with such filing fees and the additional fees, as shall be applicable on the date of actual filing, along with the certified copy of the Tribunal order for restoration of name.

12. Following documents are annexed to the Appeal:

    a. Copy of Public Notice No. ROC/STK-1/32 dated 19.07.2018 and the copy of the Public Notice No. ROC-MUM/Section 248/2nd drive/STK 4/7524 dated 12.09.2018.
    b. Copy of Certificate of Incorporation issued by Registrar of Companies under the former name of the Company i.e. Chaitanya Institute of Medical Science Private Limited and
    c. Copy of Master data and View Signatory of the Appellant Company.
    d. Copy of the resolution for the change of name of the Company dated 25th September, 2015 along with the form INC-22 filed with Ministry of Corporate Affairs (MCA).
    e. Copy of Fresh Certificate of Incorporation issued by Registrar of Companies under the current name of the company, Radiant Inn Private Limited.
    f. Copy of the Memorandum of Association and the Articles of Association of the Company.
    g. Copy of the Lease Agreement between the Company and the Maharashtra Industrial Development Corporation registered under the former name for work purposes.
    h. Copy of the audited Balance sheet, Statement of Profit and Loss, schedules thereto and notes to financial statements for the financial year ended 31st March, 2014, 31st March, 2015, 31st March, 2016,

31st March, 2017, 31st March, 2018, 31st March 2019, 31st March 2020, 31st March 2021, 31st March 2022, 31st March 2023 and 31st March 2024.

i. Copy of property card that the company has purchased for its place of work/office.

j. Copy of Bank Statement of the Company for its Account no. 1472002100027240 at Punjab National Bank, Nagpur, Khamla Branch, Maharashtra, India.

k. Copies of acknowledgements evidencing the filing of Tax returns with the Income Tax Department for the Assessment Years.

13. The following reliefs were sought from this Tribunal: -

a. "Allow the Company Appeal;

b. To forthwith rescind, cancel and/or set aside the order/action of striking off the name of Company from the Register of Companies by the Respondent;

c. To direct the Respondent to forthwith restore the name of Company in the Register of Companies and to affect the restoration in the official website maintained by the Ministry of Corporate Affairs, Government of India;

d. To allow filings of Audited Balance sheets, Annual returns, and other documents for the financial years with the Respondent;

e. To condone the Appeal due to delay in filing if any;"

<u>Submissions by the Respondent</u>

14. The Respondent RoC has filed reply dated 03.12.2025. the relevant extract of the said reply is reproduced herein below: -

1. As per available records on MCA 21 Portal of the company, M/s RADIANT INN PRIVATE LIMITED having CIN U55101MH2008PTC179562 was incorporated on 28.02.2008 under the provisions of the Companies Act,

1956. Registered office of the company, as per available records, was situated at PLOT NO. 126, FLAT NO. 101, FIRST FLOOR, PRAJAKTA PINNACLE3, TELECOM NAGAR, NAGPUR, Maharashtra, India, 440022. The authorized Share capital of the Company is Rs. 1,00,000/- (Rupees One Lakh Only). Copy of the Master Data of the company is enclosed here as Annexure -A.

2. *As per available records on MCA 21 portal last Directors of the Company were as follows:*

    a. *DEEPAK ASHUTOSH BHARADWAJ*
    b. *SUHANI DEEPAK BHARADWAJ*

3. *It is humbly submitted the brief of the facts as follows: - Respondent i.e., Registrar of companies, Mumbai issued a Public Notice STK-5 dated 19.07.2018, under section 248 of Companies Act., 2013 for the purpose of striking off the name from register of the companies. Further on 12.09.2018 Respondent stuck off the Appellants Company i.e RADIANT INN PRIVATE LIMITED. Via Public notice under section 248 of Companies Act, 2013 for not carrying any business or operation from F.Y-2013-14.*

4. *It is submitted, under Section 248(1) of the Companies Act, 2013 states that "a company has failed to commence its business within one year of its incorporation {or}(c)a company is not carrying on any business or operation for the period of two immediately preceding financial year and has not made any application within such period for obtaining the status of a dormant company under section 455". As per records available with the office, the company has failed to file annual financial statements (which include the balance sheet, profit and loss accounts, cash flow statement, and auditors report) after the Financial Year 2013-14. Further, after providing notice through the STK 5, the respondent duly intimidated the company about its name being stuck off However company did not take any action towards the same.*

5. *As per the statutory requirement under Sections 92 and 137 of the Companies All, every company, whether private or public, is required to*

prepare and file annual financial statements (which include the balance sheet, profit & loss account, cash flow statement, and the auditor's report) from the first financial year following its incorporation. These statements must be filed with the Registrar of Companies (RoC) within 30 days after the Annual General Meeting (AGM). Since the company was incorporated in 2008, it should have filed the financial statements for each year, starting from its first AGM.

6. *That admittedly, the Company failed to file Financial Statement /Annual Accounts /Annual Reports within the stipulated time. In view of the failure to comply with the Statutory requirements of Section 92 and 137 of the Companies Act, 2013, since Fy.2013-14. The Respondent, in exercise of its power under section 248(1)(C) of the Companies Act,2013, initiated suo-moto proceedings for the removal of the name of the company from Register of Companies.*

7. *That the Respondent most respectfully submits that the striking off the Petitioner Company's name was carried out in compliance with the due process of law, as mandated under Section 248 of the Companies Act, 2013, providing an opportunity to present objections, if any, against proposed action. The copy of the public notice in Form STK-5 WITH public Notice dated 19.07.2018 is attached herewith as **Annexure-B**.*

8. *Despite such notice, the Company and its directors failed to make any representation against the proposed strike-off. Consequently, the Respondent proceeded with the removal of the Company's name from the Register of Companies in the Year 2018.*

9. *The Company claimed to be in business and relied upon a Lease Agreement in support of the claim. The lease agreement dated 21.04.2008, was executed between **THE MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPORATION** (hereinafter called the "**Grantor**") and **M/S CHAITANYA INSTITUTE OF MEDICAL SCIENCE PRIVATE LIMITED**.*

10. *However, while referring to the para 1 to 7 of lease agreement it is observed that the said lease agreement is conditional in nature. Considering the fact that the company was not carrying on business operations, it can be inferred*

that the company might not have complied with condition stipulated under the lease. Therefore, it is submitted before this Tribunal to direct the appellant to furnish a confirmation with supporting documents to prove that the condition of the lease agreement has been duly satisfied. Further mere entering into the lease agreement does not mean that Company has is operating its business.

11. ***Under Section 252(3) states that*** *"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." Which means The Tribunal will consider the request only if it believes one of the following: -*

    a. ***The company was still actively running its business when it was removed.***

    b. ***It is fair and right to put the company's name back on the list****.*

12. *Without prejudice to the aforesaid, the Respondent most respectfully submits that the striking off the Petitioner Company's name was carried out in compliance with the due process of law, as mandated under Section 248 of the Companies Act, 2013, and in accordance with the applicable rules and circulars issued by the Ministry of Corporate Affairs. Further, the company has failed to provide any minimal explanation for its prolonged noncompliance of the statutory mandated under the companies Act, 2013.*

13. *The Company has attached copies of its audited Balance Sheet & Income tax returns as proof of carrying business operation. However, on perusal of the said financial statements, it is observed that the Revenue from business operation of the Company has been nil. Thus, the Company was in fact not carrying on any business activities and has merely complied with procedural requirements. This is also indication of the fact that the Company had no intention of carrying on business activities. Further in so far as the submission of the Company regarding probable sub-lease of his property is concerned. It is submitted that the Company was already struck off and its Directors/ Shareholders are negotiating business deals in the name of a dead Company which is reflective of their disregard for the established procedures of law. Therefore, it is humbly submitted that the Company has failed to prove that it was carrying on business activities at the time of strike-off. Accordingly, its plea under section 252 is not maintainable.*

14. *Moreover, mere presence of assets and their retrieval is not a ground for restoration of a struck off Company. The appellant failed to raise any such contentions when notice for strike off in form STK-5 was issued.*

15. *It is submitted that Company is Struck off under Section 248, such company stands dissolved and cease to operate as per provisions of section 250 of Companies Act, 2013, under the Doctrine of Bona Vacantia reads with doctrine of Escheat, the property of a Dissolved Company (Dead Company) shall vest with the Government. It is reiterated that the Appellant have not provided any Substantial Ground for the Revival of Subject Company.*

In view of the foregoing facts and circumstances, it is mot respectfully submitted that before grant of prayer of the petitioner by this Hon'ble Tribunal:

(A) The company has failed to established any grounds for the restoration of company, under Section 252 of the Companies Act, 2013. Thus, the instant appeal may be dismissed in limine.

Any such order which this Hon'ble Tribunal may deem fit and proper.

Observations & Findings

15. After consideration of the facts of the case we find no error on the part of ROC for striking off the Company's name from the Register of Companies. In this case Form STK-5 was issued on 19.07.2018 proposing of striking of the company under Section 248(1) of the Companies Act, 2013 and objections were invited within 30 days from the date of publication of this notice. Subsequently and in view of no response from the company STK-7 was issued on 12.09.2018 wherein the company's name appeared at serial no. 7781 of Annexure A of the said Form STK-7. Accordingly, due procedure has been followed in issuing notice of striking of and dissolution of the company in terms of Section 248(5) of the Companies Act, 2013 and Rule 9 of the Companies (Removal of names of companies from the Register of companies) Rules, 2016.

16. It is further the admitted fact that the company has not filed its financial statements, Annual Reports for the immediately two preceding financial years i.e., 2016-17 and 2017-18. It is further not the case that the company has filed an application or obtained the status of a Dormant Company under Section 455 of the Companies Act.

17. As per the statutory requirement under Sections 92 and 137 of the Companies All, every company, whether private or public, is required to prepare and file annual financial statements (which include the balance sheet, profit & loss account, cash flow statement, and the auditor's report) from the first financial year following its incorporation. These statements must be filed with the Registrar of Companies (RoC) within 30 days after the Annual General Meeting (AGM). Since the company was incorporated in 2008, it should have filed the financial statements for each year, starting from its first AGM. However, these mandatory compliances have not been done by the company.

18. The Section 252(3) of the Companies Act, 2013 provides as under:-

> *"(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] to 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]."*

19. The provisions of section 252(3) provides for restoration of name of the company into the Register of Companies if (i) the company was carrying on business or in operation, or (ii) otherwise it is just to restore the name of the company to be restored to the Register of Companies.

20. In order to substantiate that the company was carrying on his business or operation the Appellants have filed the Audited Balance Sheet, Statement of Profit & Loss, Schedules thereto, and notes to Financial Statements for the financial year ended 31st March, 2014, 31st March, 2015, 31st March, 2016, 31st March, 2017, 31st March, 2018, 31st March 2019, 31st March 2020, 31st March 2021, 31st March 2022, 31st March 2023 and 31st March 2024. However, on perusal of the said financial statements, it is observed that the Revenue from business

operation of the Company has been Nil. Thus, the Company was in fact not carrying on any business activities and has merely complied with procedural requirements. Therefore, mere preparation of the balance sheets and the Audited Financial Statements neither prove that the Company was carrying on business or was in operation unless there is some revenue/expenses of operation are reflected in such financial statements. The preparation of the Balance Sheets / Audited Financial Statements in the case of the Applicant company on the contrary is an indication of the fact that the Company had no intention of carrying on business activities.

21. In order to examine whether the other limb of provisions of Section 252(3) which is '*otherwise it is just*' are attracted in this case it is important to note that the only asset that the company supposed to be owning is a lease agreement dated 21.04.2008, executed between Maharashtra Industrial Development Corporation (MIDC) and the Company. The appellant submits that in terms of the said lease certain advances have been taken and work is in progress. However, it is noted that the lease is a conditional one wherein following stipulations are provided: -

"*Grant of License:*

1. *During the period of Three years from the date hereof the Licensees shall have License and authority only to enter upon the place of land described in the First Schedule hereunder written and delineated on the plan annexed hereto and thereon surrounded by a red coloured boundary line for the purpose of building and executing works thereon as hereinafter provided and for no other purpose whatsoever and until the grant of such Lease as is herein after referred to the Licensees shall be deemed to be bare Licensees only of the premises at the same rent and subject to the same terms as If the Lease had been actually executed.*

2. *……*

Submission of plans for approval

3. The Licensees hereby agree to observe and perform the following stipulations that is to say :-

*(a) That he/she/ will within **3 years** ((Three years) from the date of possession hereof submit to the Executive Engineer, Maharashtra Industrial Development Corporation, in charge of the said industrial area (hereinafter called "the Executive Engineer" which expression shall include any other officer to whom the duties and functions of the said Executive Engineer, Maharashtra Industrial Development Corporation mav be assigned) for his no objection to the specifications, plans, elevations, sections and details of the Shops building approved by the Local Authority / Planning Authority, hereby agreed by the Licensee to be erected on the said land and the Licensees shall at their own cost and as often as they may be called upon to do so amend all or any such plans and elevations and if so required will produce the same before the Executive Engineer and will supply him such details as may be called for the specifications and when such plans, elevations, details and specifications shall be finally approved by the Executive Engineer and signed by him the Licensee shall sign and leave with him three copies thereof and also three signed copies of any further conditions or stipulations which may be agreed upon between the Licensees and the Executive Engineer.*

(b)….
(c)…..

Time limit for commencement and completion of construction work

*(d) **That she shall within a period of 3 years (Three years)** from the date hereof commence, and within a period of five years from the said date at their own expense and in a substantial and workman like manner and with new and sound material and in compliance with all Municipal rules, bye laws and regulations applicable thereto and in strict accordance with the plans, elevations, details and specifications to the satisfaction of the Executive Engineer and conformably to the building lines marked on the plan hereto annexed and the Building Regulations set out in the Second Schedule here underwritten, build and completely finish fit for occupation a building to be used as of Hospital, with all requisite drains and other proper conveniences thereto.*

22. Accordingly, it can be seen that the period of lease is 3 years during which the licensees shall have to perform various functions including submission of plans for approval as also commencement and completion of construction work. The lease dating back to 21.04.2008, and

therefore, the aforesaid work should have been completed on or before April 2011. In this case, the striking off action has been taken on 12.09.2018, for the reason that no business activity was being done and the company was not in operation. This ordinarily could have been the case if in terms of the lease deed the commencement and construction as per plan would have been completed. No detail, documents, Plan, commencement of construction or completion of the construction etc., have been enclosed with the instant Appeal.

23. It is also noted that since the lease deed with MIDC is conditional in nature and if condition having been not fulfilled, ordinarily the process for termination of lease and taking back of the leased property by the MIDC would be on course. It therefore, seems that this appeal has only been filed for the limited purpose of opposing the action of MIDC in the termination of lease and further course of action.

24. The appellants have placed reliance on the judgment of Hon'ble NCLAT New Delhi in Company Appeal No. 147/2021, dated 23.03.2023, and have specifically taken us to para 10 of the said order in support of their Appeal. In the said para the Hon'ble NCLAT have taking into account the Audited Annual Accounts of the Company for various financial years and Income Tax Returns have specifically noted that the company has substantial movable as well as immovable assets and have accordingly observed that the Company was carrying on business or operations. However, in the facts of the present case it is clear that the company has no revenue from operations, the Return of Income filed by the company show Nil Gross Total Income as well as Nil Total Income in all the years so much so the return of Income for Assessment Year 2016-17, 2017-18 have been filed on 31.03.2018 and other returns though filed on time do not show any income/revenue from operations. As regards the asset it is stated that the only asset the company states to be owning is the leased land of MIDC by way of lease deed dated 21.04.2008, which is a conditional lease and conditions have not been

demonstrated to have been fulfilled. Accordingly, the case of the company is distinguishable on facts and it does not even fall under the category of "*otherwise it is just*" as provided in Section 252(3) of the Companies Act.

25. In view of the facts and circumstances of the company and discussion herein above the Company Appeal No. **54/2025** is **dismissed** and disposed of in above terms.

Sd/-
CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

Sd/-
MOHAN PRASAD TIWARI
(MEMBER JUDICIAL)

//Anmol//