

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **COMPANY PETITION 510/2009**

UNIQUE KITCHEN-AIDS PRIVATE LIMITED ... Petitioner
Through Mr. Santanu Kanungo,
Advocate.

versus

REGISTRAR OF COMPANIES Respondent
Through Mr. Atma Sah, Assistant ROC.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **02.11.2010**

This petition under Section 560(6) of the Companies Act, 1956 (Act for short) is for restoration of the name of the petitioner- Unique Kitchen Aids Private Limited in the register maintained by the Registrar of Companies. The name of the aforesaid company was struck off by the Registrar of Companies vide notification published in the Gazette Notification dated 26th April, 2008.

2. The Registrar of Companies in their reply has stated that notices under Section 560(1)(2) and (3) of the Act were issued to the petitioner company from time to time but there was no response and in these circumstances action under Section 560(5) of the Act was taken. It is also stated that the petitioner company had defaulted in filing of its annual returns for the period ending 30th September, 2003 to 30th September, 2008 and the balance sheets as on 31st March, 2003 to 31st March, 2008.

3. The petitioner company has placed on record copy of their income tax returns filed by them for several assessment years. It is

stated that the petitioner company has taken a loan from the Oriental Bank of Commerce and the said bank is a secured creditor. It is stated that the petitioner is a running company.

4. The petitioner has placed on record no objection in form of affidavits of Madan Lal Sharma, Praveen Sharma, Archana Sharma, Dev Dutt Sharma and Mahesh Sharma. It is stated that the said persons are the only shareholders of the petitioner company. It is pointed out that Mr. S.D. Sharma has expired and his death certificate has been placed on record. It is stated that the lapse and default in filing of the balance sheets and the annual returns was on account of the fact that Mr. S.D. Sharma was not well. The petitioner has placed on record receipts issued by the Registrar of Companies with regard to furnishing of Form Nos.32.

5. The respondent-Registrar of Companies has not placed on record notices/letters, which were allegedly sent/written to the petitioner company. It is also not stated that how the said letters were dispatched/served.

6. Learned counsel for the petitioner, however, has accepted and admitted defaults in filing of the annual returns and the balance sheets for the period ending 31st March, 2003 till 31st March, 2008. Learned counsel for the petitioner states that the petitioner is ready and willing to pay Rs.1 lac towards costs and expenses to the Registrar of Companies.

7. In view of the aforesaid facts, the present petition is allowed and the name of the petitioner Unique Kitchen Aids Private Limited is directed to be restored in the register of companies maintained by the Registrar of Companies subject to the following conditions:-

(i) The petitioner will within a period of four weeks deposit Rs.1 lac with the Registrar of Companies on account of costs and expenses.

(ii) After four weeks of restoration of the company's name in the register maintained by the Registrar of Companies, the petitioner will file their annual returns and balance sheets for the period ending 31st March, 2003 to till date. The petitioner will also pay requisite charges/fee as well as late fee/charges.

(iii) The Directors of the petitioner company will file an affidavit in this Court that they shall in future comply with the provisions of the Act and file annual returns, balance sheet etc. with the Registrar of Companies within the stipulated time.

It is clarified that the Court has not expressed any opinion on whether the petitioner company or its directors have committed any offence under the Act or whether they are entitled to compounding of any offence.

Dasti.

SANJIV KHANNA, J.

NOVEMBER 02, 2010

NA