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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 68/252 (3)/NCLT/AHM/2017**

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.01.2018**

Name of the Company: Shaniya Stella Varghese & Anr.  
(Atelver Agro Pvt. Ltd.)  
V/s.  
Registrar of Companies, Gwalior, MP

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

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.

**ORDER**

None present for Appellant. None present for ROC.

Order pronounced in open court. Vide separate sheets.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 09th day of January, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 68/252/NCLT/AHM/2017**

**In the matter of:**

M/s. Atelier Agro Apiculture Private Limited

**In the matter between:**

1. Shaniyastella Varghese  
Old No.8/34A, New No.8/106,  
Fathimapuram  
Kollencode-629160 TN
2. Rajbirsingh  
Unit LIG Housing Board Colony  
Vivekanadpuram  
Shivpuri-473551 (M.P.) : Appellants.

Versus


Registrar of Companies,  
Madhya Pradesh (Gwalior)  
3rd Floor, A Block,  
Sanjay Complex,  
Jayendraganj,  
Gwalior-474009  
Madhya Pradesh. : Respondent.

Order delivered on 9<sup>th</sup> January, 2018.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)**

**Appearance:**

Mr. R.S. Srivastava, learned PCS for the Appellant.  
None present for ROC.



**ORDER**

1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellants being Members and Directors seeking restoration of the name of the Company, namely M/s. Atelier Agro Apiculture Private Limited in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["ROC" for short].

2. The facts in brief, which necessitated the Appellants file this Appeal, are as follows;

2.1. The Appellants have submitted that the ROC vide Public Notice No.1 dated 10<sup>th</sup> March, 2017 issued in Form No. STK-5 proposed to strike off the name of the Company on the ground that the Company has not been carrying on any business or operation for a period of two immediately preceding financial years and have not made any application within such period for obtaining the status of dormant company under Section 455; and further vide Notice No. ROC-G/248(5)/2017/2915 dated 9<sup>th</sup> June, 2017 issued in Form No. STK-7 has struck off the name of the Company from the Register of Members.

2.2. According to the Appellants, the Company regularly held the Annual General Meeting however due to inadvertence and due to lack of professional support the statutory returns and financial statements could not be filed in time; the Company is striving hard to expand its business and to increase its turnover and profits; and prayed for restoration of the Company.

3. Though notice of hearing was served on the Registrar of Companies, Gwalior, the ROC has not filed his objections.

4. The Appellants along with the Appeal filed copies of Balance Sheets, Profit and Loss accounts, and Auditor's Report and



Audited Balance Sheets for the financial years from 2012-13 to 2015-16. The Appellants filed Affidavit dated 19<sup>th</sup> December, 2017 regarding the status of the Bank accounts and status of the Directors of the Company, and annexed therewith copies of Acknowledgements of Income Tax Return for Assessment Years 2016-17 and 2017-18.

5. This Appeal is filed by the Members and Directors under Section 252(3) of the Companies Act. The Appellants being Members are entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company M/s. Atelier Agro Apiculture Private Limited was struck off on 9<sup>th</sup> June, 2017 from the Register of Companies. This Appeal was filed on 13<sup>th</sup> October, 2017. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Atelier Agro Apiculture Private Limited is that the Company has failed to file statutory Annual Accounts and Returns for few years.

7. The material on record also goes to show that the Company is an ongoing concern and has been doing business.

8. Considering all the aforesaid aspects, this Tribunal is of the considered view that it is just and equitable to restore the name of the Company, M/s. Atelier Agro Apiculture Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh,; to defreeze the Bank accounts; and also to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013; and accordingly there shall be directions. The Company's name shall be restored upon the Appellants complying with the following conditions;

(i) The Appellants shall file all over due statutory returns with fee and additional fee as required under the Companies Act;

(ii) The Appellants shall publish a Notice in leading newspapers circulating in the District as well as in the Official Gazette of the Government of India with regard to the restoration of the name of the Company in the Register of Companies maintained by the Office of the Registrar of Companies, as per the draft notice approved by the Registrar of Companies at the expenses of the Appellant;

(iii) The Appellants shall also pay an amount of Rs. 10,000/- to the Ministry of Corporate Affairs by way of Demand Draft drawn on Nationalised Bank towards the cost incurred by the Government in striking off the name of the Company within 3 (three) weeks from the date of this order.

9. The Appeal stands disposed of accordingly.

Signature:  9.1.18

**Sri Bikki Raveendra Babu,  
Member (Judicial)**

Rmr..