

21

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 82/252/NCLT/AHM/2017**

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**  
**Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 08.02.2018**

Name of the Company: Mohanlal Chugh  
(Chugh Infrastructure Pvt. Ltd)  
V/s.  
Registrar of Companies

Section of the Companies Act: Section 252 of the Companies Act, 2013

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

1.

2.

**ORDER**

None present for Appellant. None present for ROC.

Order pronounced in open court. Vide separate sheets.

  
**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Dated this the 8th day of February, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 82/252/NCLT/AHM/2017**

**In the matter of:**

Shri Mohan Lal Chugh  
Member of M/s. Chugh  
Infrastructure Private Limited,  
19, Manishpuri, Saket,  
Indore (M.P.).

: Appellant.

Versus

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

: Respondent.

Order delivered on 8<sup>th</sup> February, 2018.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J) – And  
Hon'ble Ms. Manorama Kumari, Member (J).**

**Appearance:**

Ms. Deepali Garewal, on behalf of Mr. Vijayesh Atre, learned  
Advocate for the Appellant.

None present for Registrar of Companies.

**ORDER**

**[Per: Hon'ble Ms. Manorama Kumari, Member (J).]**

1. The Appellant abovenamed, who is Director and Member, by way of this Appeal, seeks for restoration of the Company, namely, M/s. Chugh Infrastructure Private Limited, which was struck off

*Chugh*

*B N* Page 1 | 4

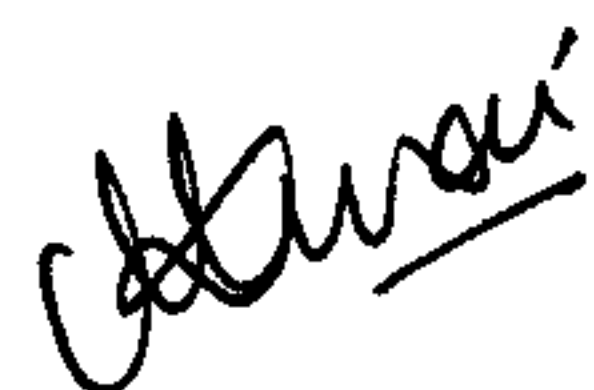
from the Register of Companies by the Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short].

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

2.1. It is stated that the ROC vide Public Notice No.1 dated 10.3.2017 issued in Form No. STK-5 followed by Notice No. ROC-G/248(5)/2017/2915 dated 9<sup>th</sup> June, 2017 issued under sub-section (5) of Section 248 of the Companies Act, 2013, has struck off the name of the Company from the Register of Companies inter alia 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.

3. The Appellant has submitted that the Company is operational; a going concern; its Directors are regularly doing business; and not a dormant Company. The Appellant has further submitted that due to oversight and some unavoidable reasons the financial statements and annual returns for last three years were not filed on time; and no notice under Section 248(1) of the Companies Act, 2013 was ever issued by the ROC to enquire as to whether the Company is carrying on business or not before its name was struck off.

4. The Appellant has filed copies of audited balance sheets along with auditors' reports as on 31<sup>st</sup> March, 2014; 31<sup>st</sup> March, 2015; 31<sup>st</sup> March, 2016; and 31<sup>st</sup> March, 2017; copies of Acknowledgements of Income tax Returns for assessment years 2014-15 to 2017-18; and list of directors and shareholders along with the Appeal.





5. On Notice being issued, the Appellant has filed Affidavit dated 1<sup>st</sup> December, 2017 showing status of Bank account and enclosed therewith list of disqualified Directors. The Appellant has in compliance of the order dated 8.1.2018 passed by this Tribunal filed Affidavit on 19<sup>th</sup> January, 2018 and enclosed therewith copy of statement of Bank account of the Company as on 9<sup>th</sup> January, 2018.

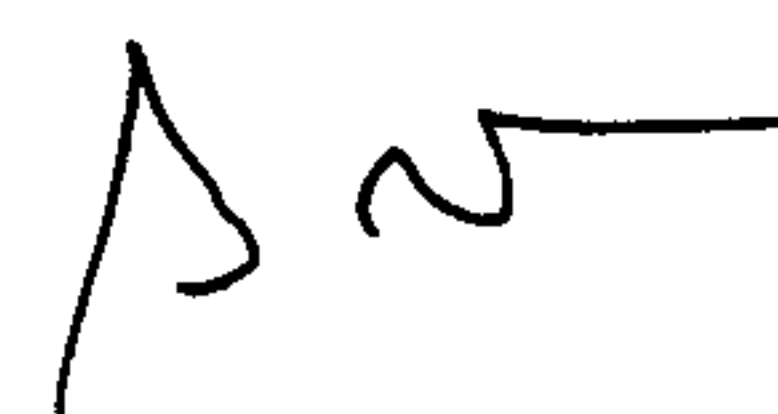
5. Though notice was served on the Respondent/ROC by this Tribunal, the ROC has not filed any representation.

6. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act and he being Director and Shareholder is entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Chugh Infrastructure Private Limited was struck off on 9<sup>th</sup> June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 17<sup>th</sup> November, 2017. Therefore, this Appeal is within time.

7. From the material available on record, the only reason for striking off the name of the Company, M/s. Chugh Infrastructure Private Limited is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies for the last three years.

8. The material on record also goes on to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at A.B. Road, Indore, Madhya Pradesh.

9. 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. Chugh Infrastructure Private Limited in the

 Page 3 | 4

Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

10. In view of the above, the instant Appeal is allowed directing the Registrar of Companies, Gwalior, Madhya Pradesh to restore the name of the Company in the Register of Companies upon Appellant's complying with the following conditions;

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

(ii) The Appellant 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 Appellant 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.

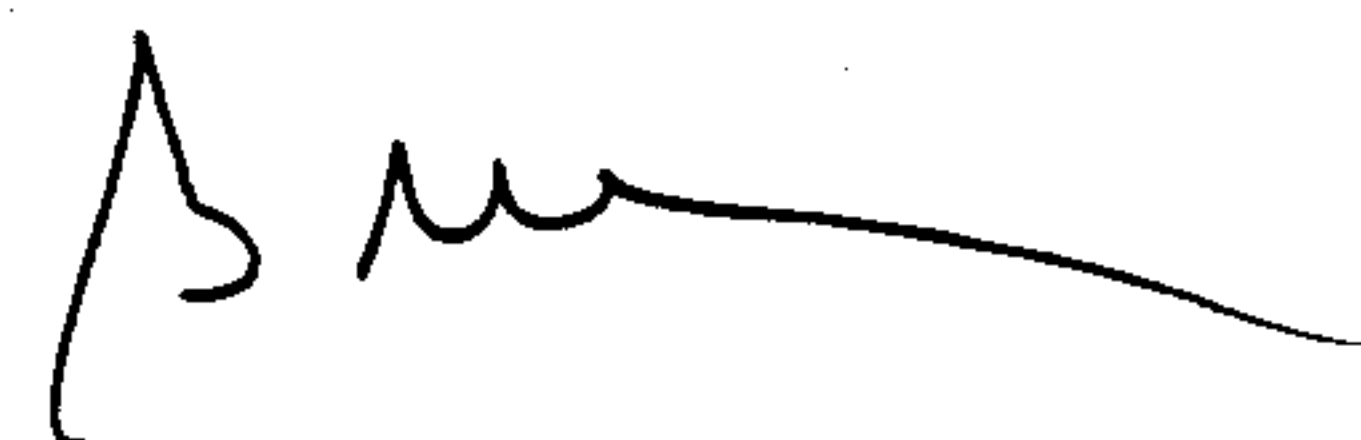
11. The Appeal stands disposed of accordingly.

Signature:



**Ms. Manorama Kumari,  
Member (Judicial)**

Signature:



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