

18  
**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 57/252/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:

<sup>Garg</sup>  
Manoharlal Gard & Anr.  
(Bajrang Nutrients Pvt Ltd)  
V/s.  
Registrar of Companies, Gwalior.

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. 57/252/NCLT/AHM/2017**

**In the Matter of:**

1. Mr. Manoharlal Garg,  
Member and Ex-Director of  
Bajrang Nutrients Private Limited,  
21, Jankupura Dhanmandi,  
Mandsaur-458002  
Madhya Pradesh

2. Ms. Minakshi Manohar Garg  
Member and Ex-Director of  
Bajrang Nutrients Private Limited,  
21, Jankupura Dhanmandi,  
Mandsaur-458002  
Madhya Pradesh

: Appellants.

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:**

Mr. Manish Buchasia, learned PCS for the Appellant.  
None present for Registrar of Companies.

*Manish*

*B N* Page 1 | 4

**ORDER**

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

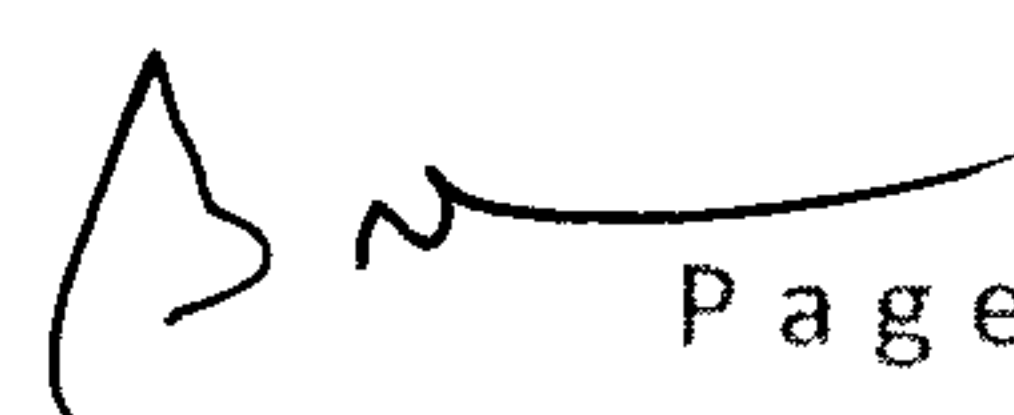
1. The Appellants above named, who are Members and ex-Directors of the Company, M/s. Bajrang Nutrients Private Limited, by way of this Appeal, seek for restoration of name of the Company, which was struck off from the Register of Companies by the Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short].

2. The facts in brief, which necessitated the Appellants 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 of the Act.

3. The Appellants have submitted that the Company is carrying on its business and operations; the Company has paid all the statutory dues as per the laws; the Company has been active since incorporation; and maintains all requisite documentation as provided under the Companies Act, 2013. The Appellants further submit that failure to file the annual returns and financial statements was unintentional and was not deliberate.

3.1. The Appellants have filed copies of Audited Financial Statements for the years from 2013-14 to 2015-16; copy of Income Tax Return for the year 2016-17; and list of present shareholders.



Page 2 | 4



4. On Notice being issued and served upon the ROC, the ROC filed Reply dated 18.12.2017 with Affidavit and submitted that the Respondent has struck off the name of the Company from the Register of Companies on suo motu basis on 9.6.2017 due to non-filing of Annual Returns and Balance Sheet for the financial years 2010-11 to 2016-17.

5. The Appellants in pursuance of the order of this Tribunal filed Affidavit regarding status of Directors and Bank account and again filed the financial statements. The Appellants also filed Audited Financial Statements for the financial years 2010-11 to 2012-13 along with letter dated 22.1.2018.

6. This Appeal is filed by the Appellants under Section 252(3) of the Companies Act and thhe being ex-Directors and Members are entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Bajrang Nutrients 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 10<sup>th</sup> November, 2017. Therefore, this Appeal is within time.

7. From the material available on record, it appears that the only reason for striking off the name of the Company, M/s. Bajrang Nutrients Private Limited is that the Company has failed to file Annual Returns and Balance Sheets from the financial year 2010-11 to 2016-17 with the ROC.

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 Mandi Prangan, Mhow Neemuch Road, Mandsaur, 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. Bajrang Nutrients Private Limited in the 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 Appellants complying with the following conditions;

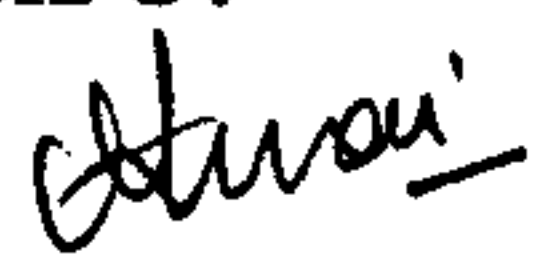
(i) The Appellants shall file all over due statutory returns with fee and additional fee as required under the Companies Act;

(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.

11. The Appeal stands disposed of accordingly.

Signature:

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

Rmr..

Signature:

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