

17
**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 40/252/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: Amrit Maheshwari & Anr.
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>
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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. 40/252/NCLT/AHM/2017

In the matter of:

1. Shri Amrit Maheshwari
S-40 Sanjay Complex,
Lashkar,
Gwalior-474001
Madhya Pradesh
2. Shri Ramji Lal Kulshrestha
C/o. Ajay Sharma
20 Assistant Line
Shivaji Marg, Birla Nagar,
Gwalior-474011
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 8th February, 2018.

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

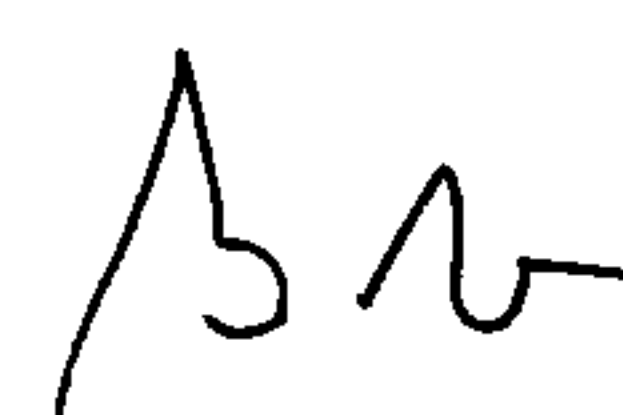
Appearance:

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

ORDER

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



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1. The Appellants above named, who are Members and ex-Directors, by way of this Appeal, seek for restoration of the Company, namely, M/s. Koteswar Realcon Private Limited, 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 9th 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 Appellants have submitted that the Company could not file its annual returns and financial statements for the financial years beginning from 2012-2013 to 2015-2016 with the ROC as the Board of Directors were not aware about statutory filings to be made to ROC; there was lack of professional guidance and support to the management; due to inadvertent mistake the filings were not made but it was not deliberate, etc.
4. On Notice being issued and served upon the Respondent, ROC, the ROC filed Representation dated 14.11.2017 on 3rd January, 2018 before this Tribunal wherein it is submitted that the name of the Company was struck off on 9.6.2017 on suo motu basis due to non-filing of annual returns and balance sheets for the financial years 2013-14 to 2015-16.

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5. The Appellants in pursuance of the Notice, got filed Income Tax Returns for the financial years 2015-16 and 2016-17 along with letter dated 21st November, 2017. They also filed an Affidavit dated 12th December, 2017 on 19th December, 2017 regarding status of Bank Account and status of Directors and annexed therewith copies of Audited Financial Statements for the financial years 2013-14 to 2016-17. The Appellants have also while filing Further Affidavit dated 18th January, 2018 annexed copies of bank statements, audited financial statements for the financial year 2012-13.

6. This Appeal is filed by the Appellants under Section 252(3) of the Companies Act and they being Members and ex-Directors are entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Koteswar Realcon Private Limited was struck off on 9th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 9th October, 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, is that the Company has failed to file Annual Returns and Balance Sheets for the financial years 2013-14 to 2015-16 with the Registrar of Companies.

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 Jiwaji Ganj Lashkar, Gwalior, 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. Koteswar Realcon 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)