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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

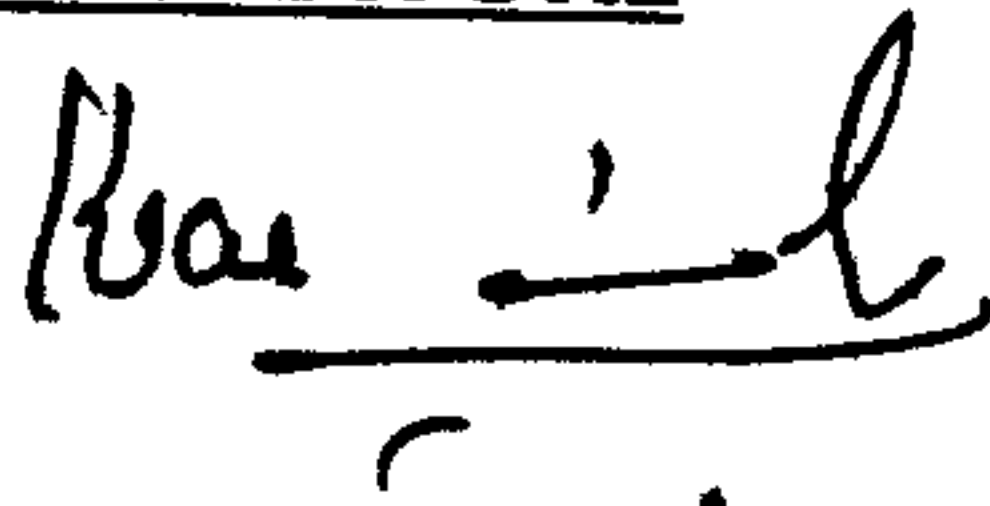
Co. Appeal No. 30/252/NCLT/AHM/2017

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: Sushil Jaynarayan Karwa
(Mariegold Infratech 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.	Kunal P Vaishnav	Advocate	Appellant	
2.				

ORDER

Learned Advocate Mr. Kunal Vaishnav 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. 30/252/NCLT/AHM/2017

In the matter of:

Shri Sushil Jaynarayan Karwa
Shareholder/Director of
Mariegold Infratech Private Ltd.,
302, Royal House, 11/3, Usha Ganj,
Indore, Madhya Pradesh. : Appellant.

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:

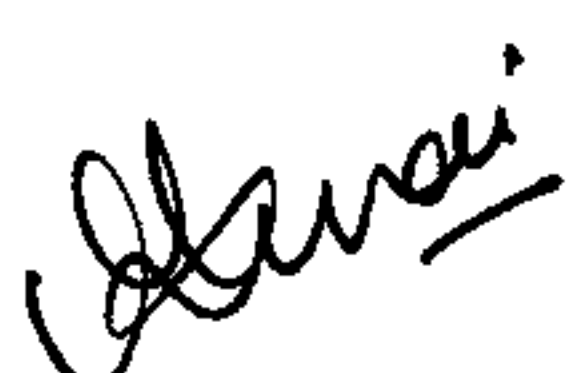
Mr. Kunal Vaishnav, learned Advocate for the Appellant.

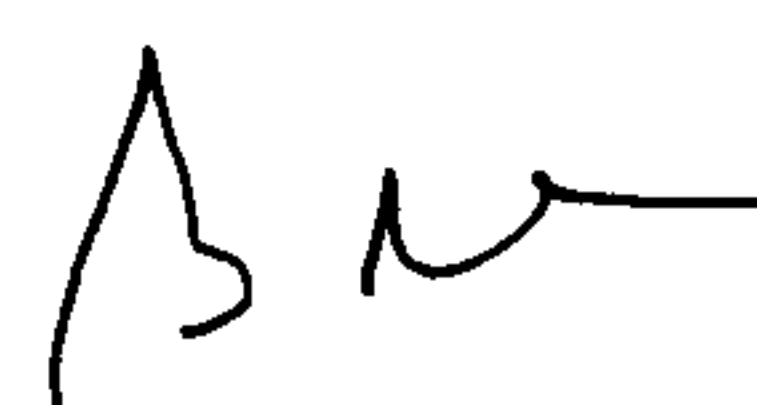
None present for Registrar of Companies.

ORDER

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

1. The Appellant abovenamed, who is Director and Shareholder, by way of this Appeal, seeks for restoration of the Company, namely, M/s. Mariegold Infratech Private Limited, which



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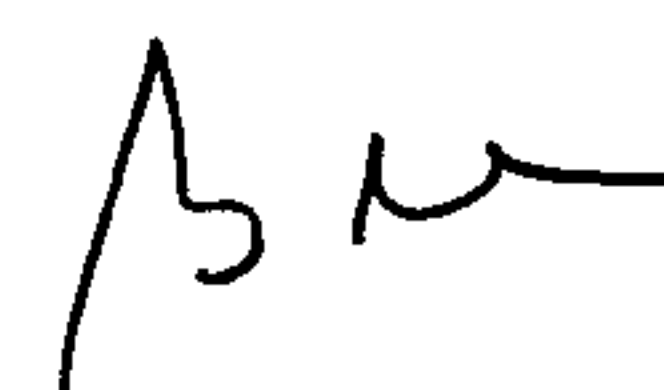
was struck off from the Register of Companies by the Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short].

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

2.1. It is stated that the ROC vide Letter No. ROC-G/U/S(248(1) dated 10.3.2017 issued in Form No. STK-1 followed by Notice No. ROC-G/248(5)/2017/2771 dated 26th May, 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. It is submitted by the Appellant that on receipt of notice from the ROC, the Company vide letter dated 3.4.2017 replied to the said notice; the ROC neither replied to its letter nor given any personal hearing and struck off the Company straightway on 26th May, 2017; the Company has been active since incorporation; and due various disputes between family members in two groups various litigations filed against each other and one of which is pending before this Tribunal being Company Petition No. 17 of 2014/TP No.62 of 2016. Non-filing of statutory documents before the ROC is according to the Appellant attributable to disputes among family members which resulted into AGM not being held.

4. On Notice being issued and served upon the Respondent/ROC, the ROC filed Reply Affidavit dated 27.11.2017 on 12th December, 2017 stating that the name of the Company was struck off on suo motu basis on 26.5.2017 due to non-filing of Annual

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Returns and Balance Sheet for the financial years 2012-13 to 2015-16. The ROC has further stated that the Company has not disclosed the proof of filing of Income Tax Returns.

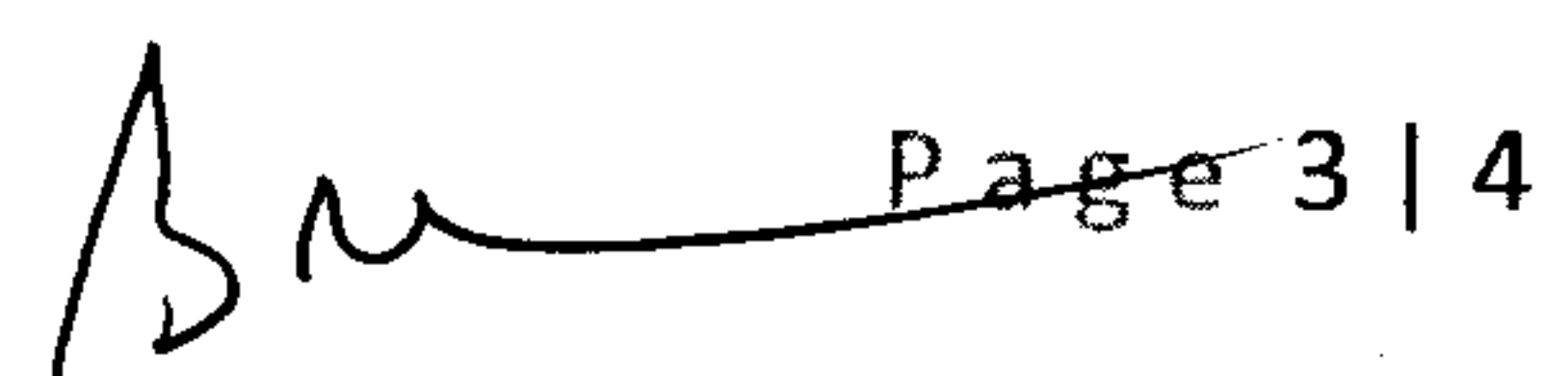
5. The Appellant while responding to the Notice, filed copies of Income Tax Return Acknowledgments for the Assessment Years 2016-17 and 2017-18 and copies of Statements of Bank Accounts of the Company.

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. Mariegold Infratech Private Limited was struck off on 26th May, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 12th September, 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. Mariegold Infratech Private Limited is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies for the financial years 2012-13 to 2015-16.

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 Royal House, Usha Ganj No.1, 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. Mariegold Infratech Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya

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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;

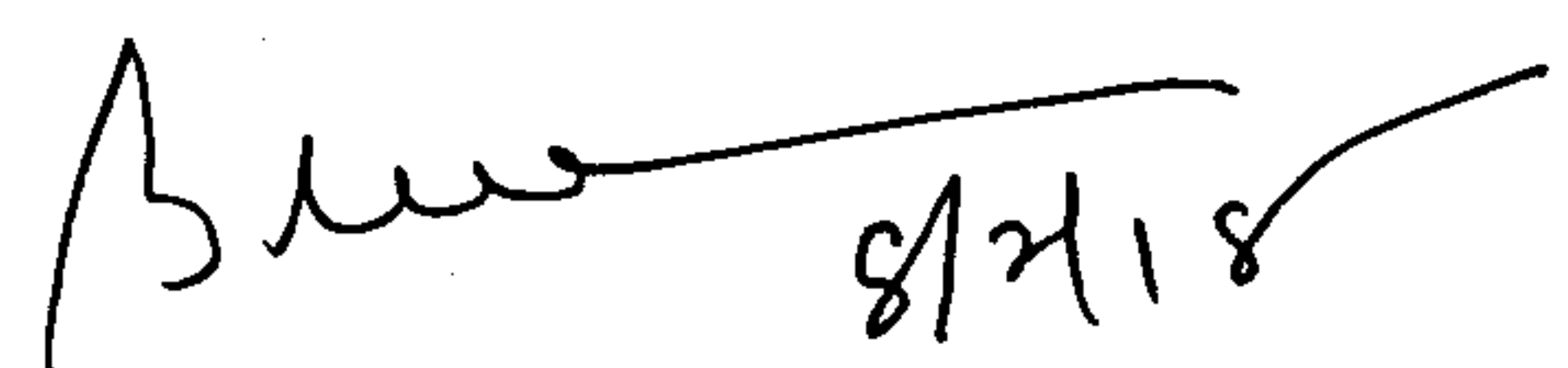
(iii) The Appellant shall also pay an amount of Rs. 10,000/- to the Ministry of Corporate Affairs by way of Demand Draft drawn on Nationalised Bank towards the cost incurred by the Government in striking off the name of the Company within 3 (three) weeks from the date of this order.

11. The Appeal stands disposed of accordingly.

Signature:


Ms. Manorama Kumari,
Member (Judicial)

Signature:


Sri Bikki Raveendra Babu,
Member (Judicial)

Rmr..