

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 2/252/NCLT/AHM/2018

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 13.02.2018**

Name of the Company: A2VP Distributors Pvt Ltd
(Vinay Nanubhai Patel & ors)
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>
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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 13th day of February, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 2/252/NCLT/AHM/2018

In the matter of:

1. A2VP Distributors Private Limited,
Registered Office at
6, Shalin Bunglows,
Nr. Gulab Tower,
Thaltej,
Ahmedabad-380054

2. Shri Vinay Nanubhai Patel
Residing at 6, Shalin Bunglows,
Nr. Sun-N-Step Club,
Thaltej, B/h. Someshwar
Ahmedabad-380054

: Appellants.

Versus

Office of Registrar of Companies,
(Gujarat, Dadra & Nagar Haveli),
ROC Bhavan, Opp: Rupal Park,
Naranpura,
Ahmedabad-380013.

: Respondent.

Order delivered on 13th February, 2018.

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

Appearance:

Mr. Balvantsinh Vaghela, learned PCS for the Appellants.

None present for Registrar of Companies.

ORDER

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

Manorama

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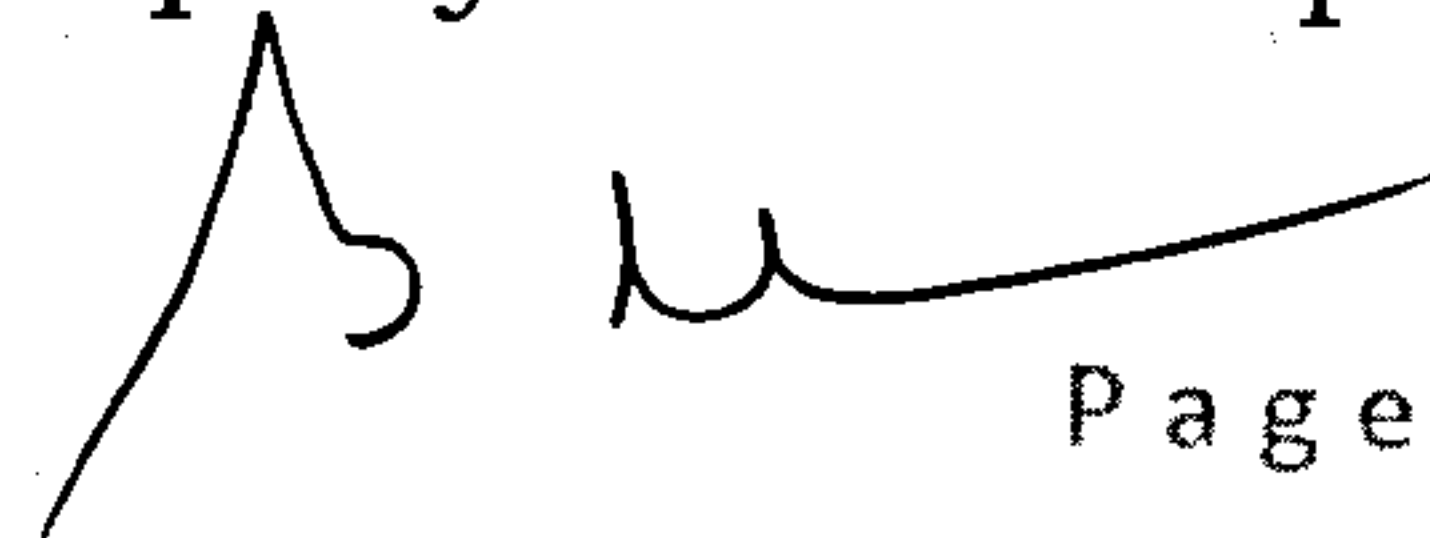
1. By way of this Appeal filed under Section 252(3) of the Companies Act, 2013, the Appellants above named seek for restoration of the name Company, M/s. A2VP Distributors Private Limited in the Register of Companies maintained by the Registrar of Companies, Gujarat, Ahmedabad ["ROC" for short].

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

2.1. It is stated that the ROC vide Public Notice No. ROC/STK/5A dated 25.4.2017 issued in Form No. STK-5 followed by final notice No. ROC/AHMD/248(5)/STK/PUB/1 dated 21st June, 2017 issued under sub-section (5) of Section 248 of the Companies Act has struck off the name of the Company from the Register of Companies.

2.2. The Appellants have submitted that the Members of the Appellant Company are partners of a partnership firm, namely M/s. Suyog Sales and Marketing. The said partnership firm was engaged as a Distributor of products of a Company named M/s. Konka Group Company Ltd; there were inter se disputes between the said Company and the Members of the Appellant Company; the matter was referred to arbitration; the litigation is pending before the Hon'ble Delhi High Court; due to continuous legal proceedings which are going on and final orders are pending the Company could not proceed





with any business activities; and the Company has filed Audited Financial Statements and Annual Returns with the ROC upto financial year 2011-12.

2.3. The Appellants have filed copies of Audited Financial Statements for the financial years 2012-13 to 2016-17; copies of Acknowledgements of Income Tax Returns for the Assessment Years 2016-17 and 2017-18; copy of Bank Statement and other documents.

3. On Notice being issued and served upon the ROC, the ROC filed Representation through his Deputy Registrar on 25th January, 2018. The ROC, while denying the allegation made and contention raised in the Petition, has submitted that the Company had failed to file statutory returns since 31.3.2013 and therefore the Company's name was struck off from the Register of Companies.

4. In pursuance of the Notice of this Tribunal, the Appellants filed an Affidavit dated 16th January, 2018 showing the status of the Directors of the Company and the status of Bank Account.

5. This Appeal is filed by the Appellant Company and one of the Members of the Company under Section 252(3) of the Companies Act. The Appellants are entitled to file Appeal seeking restoration of

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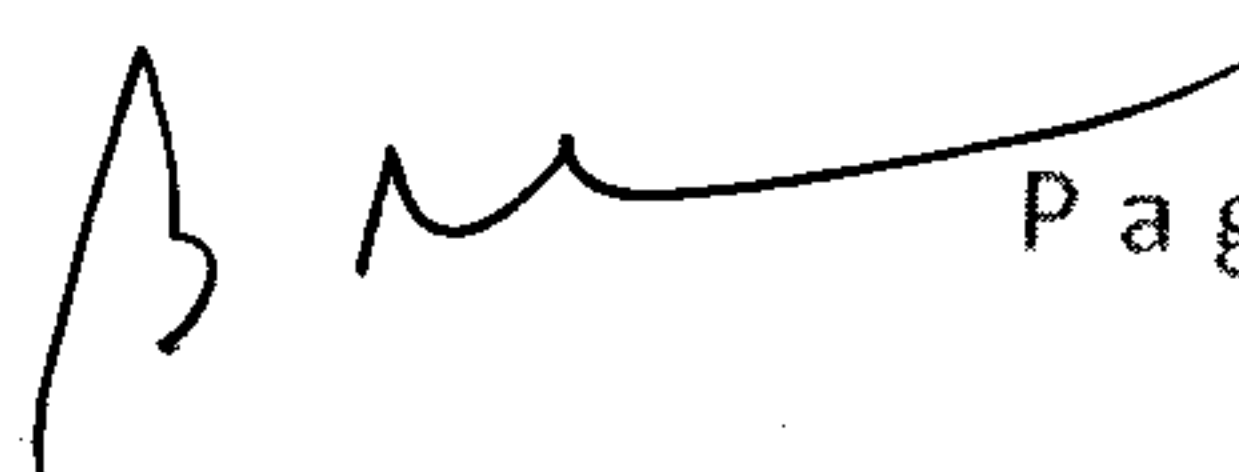
of its name. Therefore, this Appeal is maintainable. The Company, M/s. A2VP Distributors Private Limited was struck off on 21st June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 18th December, 2017. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Company, M/s. A2VP Distributors Private Limited is that the Company has failed to file its statutory returns since the Financial Year 31.3.2013.

7. The materials on record also go to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at Shalin Bunglows, Thaltej, Ahmedabad, Gujarat.

8. Considering all the aforesaid aspects, this Tribunal is of the considered view that it is just and equitable to issue directions to restore the name of the Company, M/s. A2VP Distributors Private Limited in the Register of Companies maintained by the ROC, Gujarat, Ahmedabad and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

9. In view of the above, the instant Appeal is allowed, and the the Registrar of Companies (Gujarat, Dadra and Nagar Haveli) is



directed 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 Appellants;
- (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.

10. The Appeal stands disposed of accordingly.

Signature:



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

Signature:



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