

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 46/252/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 15.01.2018**

Name of the Appellant: Saroj Kapoor
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

Dated this the 15th day of January, 2018.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 46/252/NCLT/AHM/2017

In the matter of:

M/s. Deepam Infraestates Private Limited.

In the matter between:

Smt. Saroj Kapoor
E-1/84, Arera Colony
Bhopal-462016
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 15th January, 2018.

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

Appearance:

Mr. Pradeep Mutreja, learned FCA for the Appellant.
None present for ROC.

ORDER

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





1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellant being the shareholder as well as director namely Smt. Saroj Kapoor, seeking restoration of the name of the Company, namely M/s. Deepam Infraestates Private Limited in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["ROC" for short].

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

2.1. The Appellant has submitted that the Appellant through official gazette came to know that the name of the Company has been struck off on 9th June, 2017 from the Register of Companies. The Appellant further submitted that no notice under Section 248(1)(c) was served on the Company and no opportunity of being heard was given before the aforesaid action was taken by the Respondent ROC. The Appellant further submitted that the Company has been carrying on the day-to-day operations efficiently and diligently; the management of the Company was unaware of the legal compliances to be performed in respect of filing of statutory returns before 2013; and the consultant of the company who was entrusted with the work of filing the statutory returns inadvertently failed to comply with his professional duties. The Appellant also submitted that the Company is unable to carry on the business due to struck off and willing to carry on the business if the Company is restored.

3. Though notice of hearing was served on the Registrar of Companies, Gwalior, the ROC has not filed his objections.

4. The Appellant along with the Appeal has filed copies of Income Tax Returns for the Assessment Years from 2012-13 to 2016-17; copies of Balance Sheet for the last 3 years; and copy of Bank Statement. The Appellant has filed Affidavit dated 24th November,



2017 on 22nd December, 2017 and annexed copy of Certificate of the Chartered Accountant and copy of Bank statement.

5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellant being a member/ shareholder is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Deepam Infraestates Private Limited was struck off on 9th June, 2017 from the Register of Companies. This Appeal was filed on 10th October, 2017. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Deepam Infraestates Private Limited is that the Company has failed to file statutory Annual Accounts and Returns.

7. The material on record also goes on to show that the Company is an ongoing concern and has been doing business.

8. 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. Deepam Infraestates Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh,; and also to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013; and accordingly there shall be directions. The Company's name shall be restored upon the Appellant 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

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[Signature]

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.

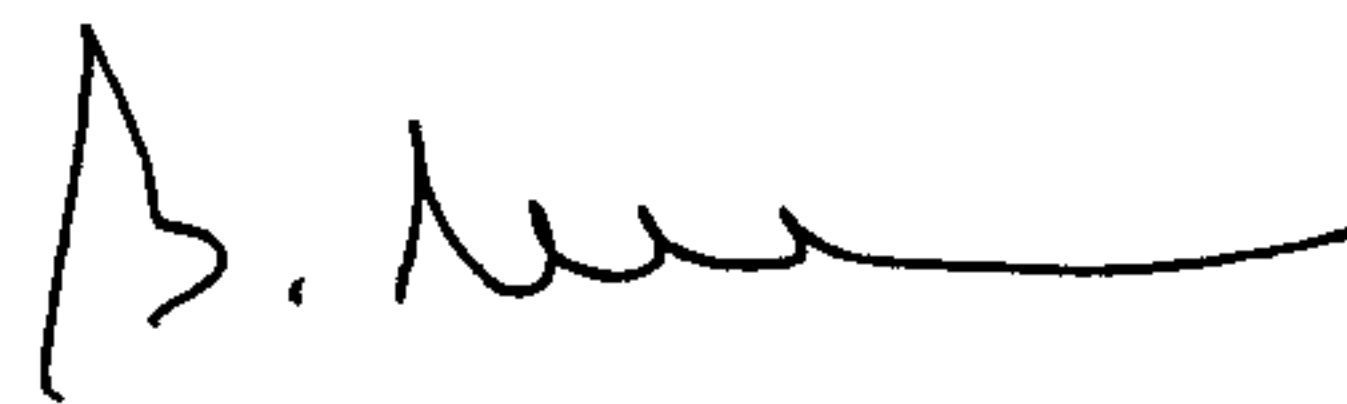
9. The Appeal stands disposed of accordingly.

Signature:



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

Signature:



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

Rmr..