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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 63/252/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 Company: **Rajesh Bansal & Ors.**  
**(Captain Tradewings Pvt. Ltd.)**  
V/s.  
**Registrar of Companies, Gwalior.**

Section of the Companies Act: **Section 252 of the Companies Act, 2013**

| <b>S.NO.</b> | <b>NAME (CAPITAL LETTERS)</b> | <b>DESIGNATION</b> | <b>REPRESENTATION</b> | <b>SIGNATURE</b> |
|--------------|-------------------------------|--------------------|-----------------------|------------------|
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|----|-----------------|-----|------------|---|
| 1. | Pratik Tripathi | PCS | Applicants |  |
|----|-----------------|-----|------------|---|

2.

**ORDER**

Learned PCS Mr. Pratik Tripathi 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. 63/252/NCLT/AHM/2017**

**In the matter of:**

M/s. Captain Tradewings Private Limited

**In the matter between :**

1. Mr. Rajesh Bansal  
R/o. 27, Shanti Niketan  
Niranjanpur,  
Indore-452010  
Madhya Pradesh
2. Mr. Kamal Pahwa  
R/o.3/2A, Roshan Singh  
Bhandari Marg, New 57 Race  
Course Road, Silver colony,  
Indore-452001  
Madhya Pradesh
3. Kamal Pahwa (HUF)  
R/o.3/2A, Roshan Singh  
Bhandari Marg, New 57 Race  
Course Road, Silver colony,  
Indore-452001  
Madhya Pradesh

: Appellants.

Versus

Registrar of Companies  
Office of the Registrar of  
Companies (M.P.)  
Sanjay Complex,  
A-3, 3<sup>rd</sup> Floor,  
Jayendraganj,  
Gwalior-474001 (M.P).

: Respondent.

Order delivered on 15<sup>th</sup> January, 2018.



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

**Appearance:**

Mr. PS Tripathi, learned PCS for the Appellants.  
None present for ROC.

**ORDER**

**[ Per: Hon'ble Sri Bikki Raveendra Babu, Member (J).]**

1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellants, who are the Directors and Shareholders of M/s. Captain Tradewings Private Limited [“the Company” for short] seeking restoration of the name of the Company 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 Appellants to file this Appeal, are as follows;

2.1. The Appellants submitted that the ROC issued a Public Notice No. 01 dated 10.3.2017 in Form STK-5 under Section 248(1) of the Companies Act, 2013 proposed for striking off the name of the Company on the grounds that the Company has not commenced business within one year of its incorporation etc. Further, the ROC, vide his 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 has struck off the name of the Company from the Register of Companies.

2.2. According to the Appellants, the omission and/or default in filing the particulars of annual filling forms was unintentional and it was due to inadvertence and there is no wilful default from the Company; the Company has already commenced its business activity in the year 2013-14; the Company is still running and operative and carrying out its business activities; and if the name of the Company is not restored it will result in technical dissolution of running





Company and all other activities will jeopardize and it will lose its legal status; the shareholders of the Company would lose protection; debtors and creditors would suffer irreparable losses etc.

3. Upon notice of hearing served on the ROC, the ROC filed Report dated 4<sup>th</sup> December, 2017 before the Registry of this Tribunal on 15<sup>th</sup> December, 2017. The ROC submitted that the Company's name was struck off from the Register of Companies on suo motu basis on 09.6.2017 due to non-filing of Balance Sheet for the financial years 2013-14 to 2015-16 and that the Directors have been disqualified under Section 164(2)(a) of the Companies Act.

4. The Appellants have filed along with the Appeal copies of Audited Balance Sheet for the financial years 2013-14 to 2015-16 etc. The Appellants have also filed an Affidavit dated 6<sup>th</sup> December, 2017 on 12<sup>th</sup> December, 2017 and annexed therewith copy of Bank Statements; and copies of Acknowledgement of Income Tax Returns for the Assessment Years 2014-15 to 2017-18.

5. This Appeal is filed by the Appellants under Section 252(1) of the Companies Act. The Appellants being promoter Directors and Shareholders are entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Captain Tradewings 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.

6. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Captain Tradewings Private Limited is that the Company has not filed Balance Sheet for the financial years 2013-14 to 2015-16.

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



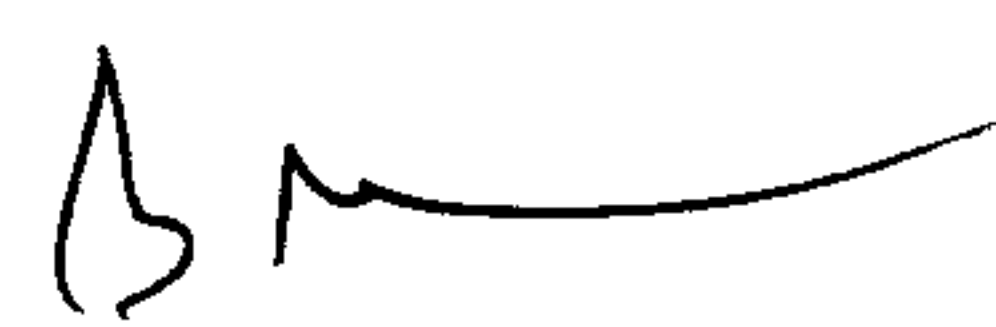
Registered Office of the Company is situated at 57, P.U.4 Commercial Scheme No.54, Indore, Madhya Pradesh.

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. Captain Tradewings 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 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.



9. The Appeal stands disposed of accordingly.

Signature:



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

Rmr..

Signature:



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