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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 72/252/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: Sanjeev Saxena  
(Mercury Mines & Minerals Pvt 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>
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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. 72/252/NCLT/AHM/2017**

**In the matter of:**

M/s. Mercury Mines & Minerals Private Limited

**In the matter between :**

Mr. Sanjeev Saxena  
Ex-Director of  
M/s. Mercury Mines & Minerals Private Limited  
Residing at  
SH.No.268, BDA Complex 7 No.Stop,  
Shivaji Nagar,  
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. Abhishek Modi, with Mr. Samank Mohabe, learned PCSs for the Appellant.

None present for ROC.

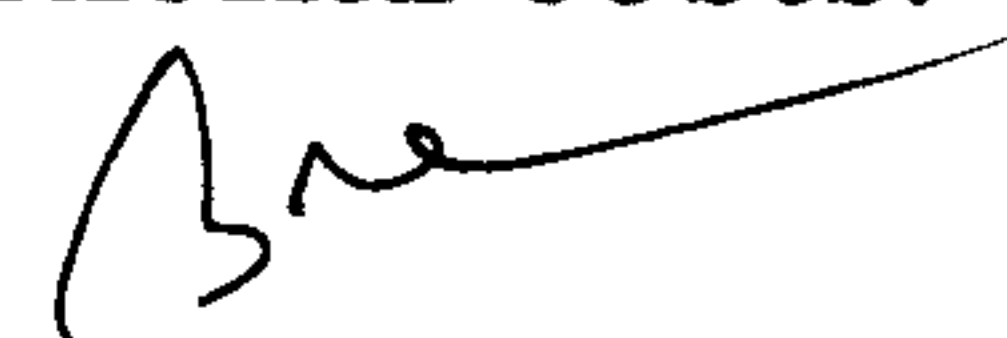


**ORDER****[ Per: Hon'ble Sri Bikki Raveendra Babu, Member (J).]**

1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellant Mr. Sanjeev Saxena, shareholder seeking restoration of the name of the Company, i.e., M/s. Mercury Mines & Minerals Private Limited, as its ex-Director in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["ROC" for short]. It is stated by the Appellant that the Respondent ROC has disqualified both the Directors of the Company under Section 164 of the Companies Act, 2013 due to non-filing of financial statements and annual returns and on further ground that the Company has not been carrying on any business or operation for the period of two immediately preceding financial year.

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 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 and Rule 9 of the Companies (Removal of Names of Companies from the Register of Companies) has struck off the name of the Company from the Register of Companies. According to the Appellant, the Company has not received any statutory notice as contemplated under Section 248(1) of the Companies Act. According to the Appellant, the Company could not file the statutory returns and financial statements due to the reasons such as the Company has been facing business crisis for past two years; the Company was unaware of the legal compliances to be performed; failure to file the annual returns and financial statements was unintentional and it was not deliberate etc,. The Company has submitted that it has established its business and operation in the market after a lot of struggle, and if the name of the Company is not restored the Company's business and operational effectiveness will suffer and it will incur additional costs.





3. Though notice of hearing was served on the Registrar of Companies, Gwalior, the ROC has not filed his objections.
4. The Appellant has filed copy of Balance Sheet and Profit and Loss Account for the year ended 31<sup>st</sup> March, 2017; copy of acknowledgment for filing of Income Tax Returns for the Assessment Year 2017-18; copy of Auditor's Report; Affidavit regarding the status of the Bank accounts and status of the Directors, etc.
5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellant being shareholder/ member is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Mercury Mines & Minerals 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 7<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. Mercury Mines & Minerals Private Limited is that the Company has not been carrying on any business or operation for the period of two immediately preceding financial year and has not made any application within such period for obtaining the status of dormant company under Section 455 of the Act.
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 Shop No. 62, B.D.A. Complex Mata Mandir, T.T. Nagar, Bhopal, 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. Mercury Mines & Minerals Private Limited in

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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 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.

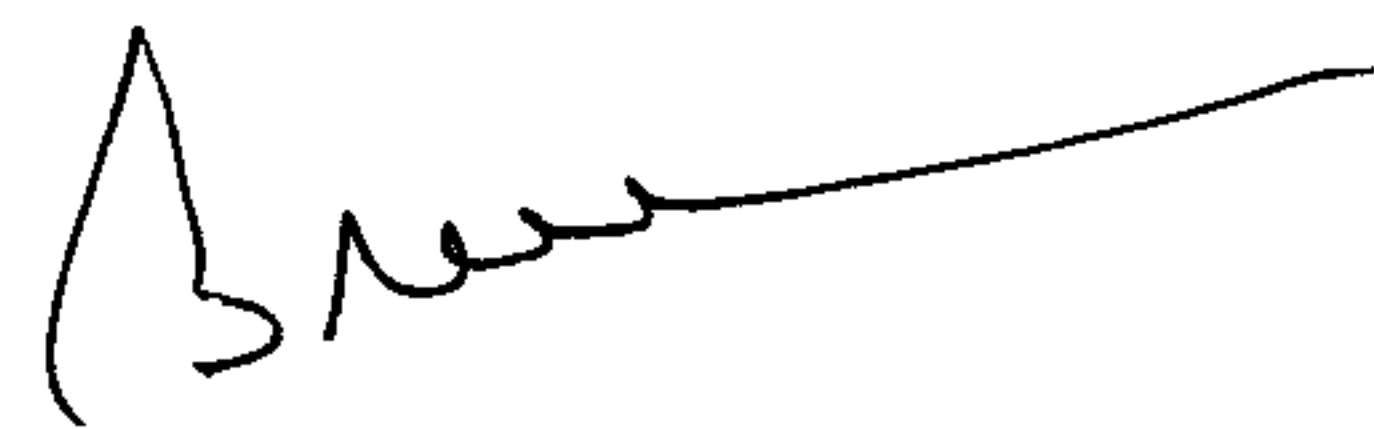
9. The Appeal stands disposed of accordingly.

Signature:



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

Signature:



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

Rmr..