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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 25/252/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: Danish Zaheer
(Alshubh Aarambh Buildcon Services 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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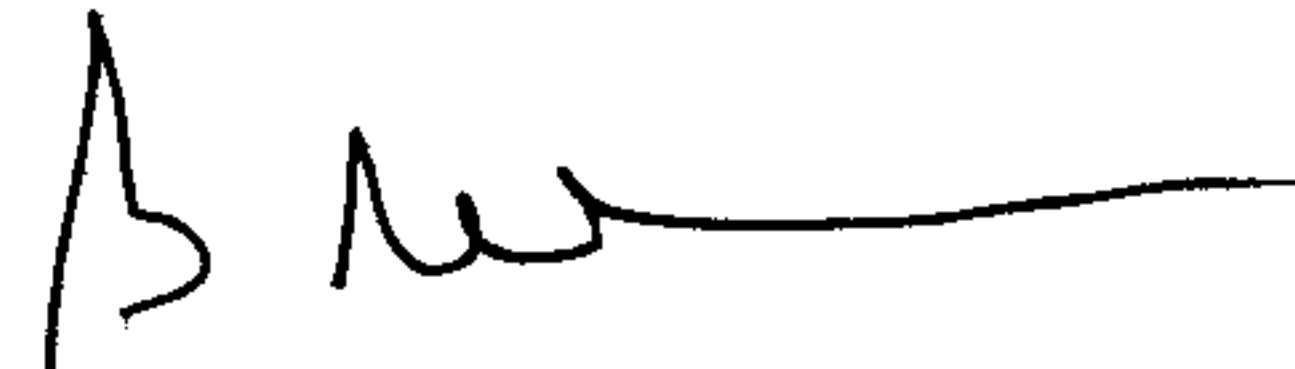
ORDER

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. 25/252/NCLT/AHM/2017

In the matter of :

M/s. Alshubh Aarambh Buildcon & Services
Private Limited.

In the matter between:

1. Mr. Danish Zaheer,
198A, Shed Ashoka Garden,
Bhopal-462023
Madhya Pradesh
 2. Mr. Mohd Zaheer,
15, Neem Road,
Jinsi Jehangirabad,
Bhopal-462001
Madhya Pradesh.
- : Appellants.

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. Manish Buchasia, learned PCS for the Appellant.
None present for ROC.



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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 Appellants seeking restoration of the name of the Company, i.e., M/s. Alshubh Aarambh Buildcon & Services Private Limited as its Members 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. It is stated that the ROC vide letter No. 248(1)/2017 dated 10/3/2017, issued notice in Form STK-5 under sub-section (1) and (2) of Section 248 of the Companies Act had shown intention to remove the name of the Company from the Register of Companies and the same was received by the Company. Thereafter, the ROC vide another Notice in Form No. STK-7 bearing No. ROC-G/248(5)/2017/2915 dated 09.6.2017 has struck off the name of the Company from the Register of Companies.

2.2. According to the Appellants, the Company could not file its annual returns and financial statements for the financial years beginning from 2013-2014 to 2015-2016 with the ROC due to serious illness of one of the family members of Appellant No.2 and demise of mother of Appellant No.1; the Board of Directors of the Company were unaware about the statutory filings; there was lack of professional guidance and support; the non-filing was an inadvertent mistake and was not deliberate etc. The Appellants further submitted that the Company is carrying on its business and operations; wishes to continue with its business; the Company has purchased land at Gwalior, Madhya Pradesh; and if the Appeal is not

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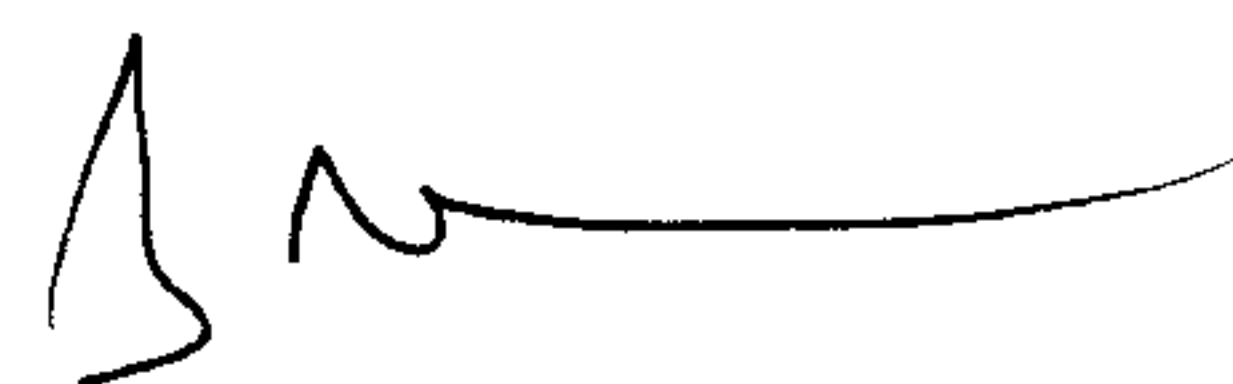
allowed the Company's business and operational effectiveness will suffer in addition to incurring of additional costs.

3. Upon issuance of notice, the ROC has filed Report dated 25.9.2017 on 28th September, 2017 and represented that the name of the Company was struck off on suo motu basis on 12.8.2017 due to non-filing of Annual Returns and Balance Sheet for the financial years 2013-14 to 2015-16, and that both the Directors have been disqualified under Section 164(2)(a) of the Companies Act, 2013. The ROC has further stated that the Company has failed to disclose about purchase of land in the Balance Sheet as at 31.3.2013.

4. The Appellants have filed Audited Financial Statements along with Auditor's Report for the years 2013-14 to 2015-16. The Appellants also filed Affidavit regarding status of Directors and status of their Bank Accounts and also filed Acknowledgments of Income Tax Return for the Assessment Years 2016-17 and 2017-18.

5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellants being member are entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Alshubh Aarambh Buildcon & Services Private Limited was struck off on 9th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 18th August, 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. Alshubh Aarambh Buildcon & Services Private Limited is that the Company has failed to file Annual Returns and 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 Shed A/198, Ashoka Garden, 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. Alshubh Aarambh Buildcon & Services 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.



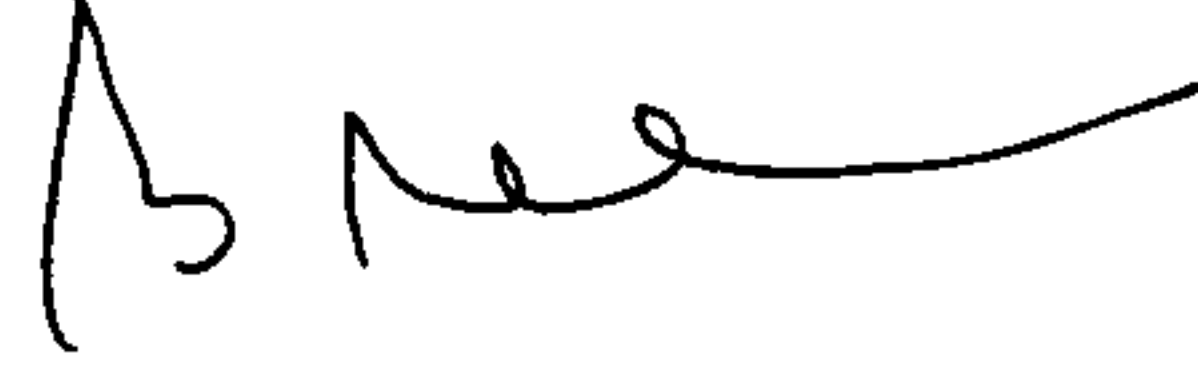
9. The Appeal stands disposed of accordingly.

Signature:



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

Signature:



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

Rmr..