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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 76/252/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: Manishbhai Shantilal Desai
(Gorgem Pharmaceuticals Pvt Ltd)
V/s.
Registrar of Companies, Gujarat.

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. 76/252/NCLT/AHM/2017

In the matter of:

M/s. Coregem Pharmaceuticals Private Limited

In the matter between :

Mr. Manishbhai Shantilal Desai,
Member of M/s. Coregem Pharmaceuticals
Private Limited,
507, Abhilasha Complex,
Near Sahajanad Palace,
Shyamalanand Nagar Road,
Satellite,
Ahmedabad-380051

: Appellant.

Versus

The Registrar of Companies, Gujarat,
ROC Bhavan, Opp: Rupal Park Society,
Behind Ankur Bus Stop, Naranpura,
Ahmedabad-380013.

: 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. Vishwas Sharma, learned PCS 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, Mr. Manishbhai Shantilal Desai, member/ shareholder seeking restoration of the name of the Company, i.e., M/s. Coregem Pharmaceuticals Private Limited, as its Director in the Register of Companies maintained by the Registrar of Companies, Gujarat, Ahmedabad ["ROC" for short].

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 Public Notice No. ROC/AHMD/248(5)/STK-7/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. According to the Appellant, the Company has filed its Annual Return for Financial Year 2011-12 with the ROC and Income-Tax Return for financial year 2015-16 but could not file its returns from the F.Y. 2012-13 to F.Y.2015-16. It is submitted by the Appellant that the Company has no mala fide intentions and due to sheer inadvertence the filing of the Annual Accounts and Annual Returns could not be completed within the prescribed time. It is further submitted that the Directors and Members of the Company have invested sizeable amount of money and time for establishing and running the Company which is a going concern and to safeguard the interest of all Creditors and Shareholders of the Company the name of the Company is required to be restored.

3. Upon notice, the ROC has filed Representation dated 13th December, 2017 through his Deputy Registrar wherein he has denied the allegations and contentions raised in the Appeal, and represented





that as the Company has failed to file its statutory returns since 31.3.2013 notices dated 6.3.2017/9.3.2017 and 25.4.2017 were issued on the Company, and finally its name was struck off vide notice issued under Section 248(5) of the Act on 21.6.2017 and published in the Official Gazette of Government of India.

4. The Appellant along with the Appeal has filed copies of Annual Reports for the Financial Years from 2012-13 to 2015-16; and copy of Acknowledgement of Income Tax Return for the financial year 2015-16. The Appellant also filed and copy of Statement of Bank Account along with the Affidavit dated 18th December, 2017 wherein it is submitted that the current account of the Company maintained with the Karur Vysya Bank has been blocked/freezed by the Bank after the strike off, and that the Directors of the Company are disqualified for five years by the ROC.

5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellant being member is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, 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 23rd 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. Coregem Pharmaceuticals Private Limited, is that the Company has failed to file its statutory returns since 31.3.2013.

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 212, Shahjanand Complex, B/H, Bhagwati Chamber, C.G. Road, Navrangpura, Ahmedabad.

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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. Coregem Pharmaceuticals Private Limited, in the Register of Companies maintained by the ROC, Gujarat, Ahmedabad; to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013; and also to issue direction for de-freezing the Bank Account of the Company, 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..