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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 64/252/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: Kunal Agarwal
(Kunal Builders & Developers 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. 64/252/NCLT/AHM/2017

In the matter of:

M/s. Kunal Builders And Developers
Private Limited

In the matter between:

Shri Kunal Agarwal
S/o Shri Pradeep Agarwal
269-270, Zone-II, M.P. Nagar,
Bhopal-462011
Madhya Pradesh

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 namely, Mr. Kunal Agarwal, seeking restoration of the name of the Company, namely M/s. Kunal Builders And Developers 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 Respondent ROC through Notice dated 10th March, 2017 in Form No. STK-1 and Form No. STK-5 had called upon the Appellant for removal of the name of the Company from his records. In reply thereto, the Appellant vide letter dated 10th April, 2017 had sought time for filing the Annual Returns. Thereafter, the Appellant through official gazette dated 25th July, 2017 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 the Company has been carrying on the business; the management of the Company was unaware of the legal compliances to be performed in respect of filing of statutory returns before 2013 etc.
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 Affidavit dated 24th November, 2017 on 27th November, 2017 and annexed thereto copies of Income Tax Returns for the financial years 2012-13 to 2014-15; copy of Bank Statement from 1st April, 2015 till November, 2017; and copy of Certificate of the Chartered Accountant.



5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellant being a shareholder is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Kunal Builders And Developers Private Limited was struck off on 9th June, 2017 from the Register of Companies. This Appeal was filed on 06th November, 2017. Therefore, this Appeal is within time.

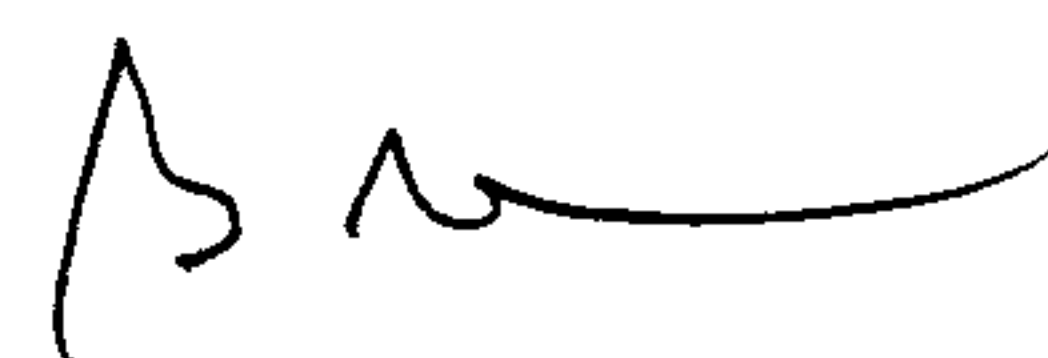
6. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Shakuntala Enterprises Private Limited, is that the Company has failed to file Annual Accounts and Returns since the year 2011.

7. The material on record also goes 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. Shakuntala Enterprises 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 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..