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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 50/252/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 Appellant: Sumit Poddar
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. 50/252/NCLT/AHM/2017

In the matter of :

M/s. Poddar Devcon Private Limited

In the matter between:

1. Mr. Sumit Poddar
Member of
M/s. Poddar Devcon
Private Limited
New Road, Shajapur-465001
Madhya Pradesh.
2. Mr. Shyam Kishore Poddar,
Member of
M/s. Poddar Devcon
Private Limited
New Road, Shajapur-465001
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).**

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[Signature]

Appearance:

Mr. Manish Buchasia, 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 Appellants seeking restoration of the name of the Company, i.e., M/s. Poddar Devcon Private Limited as its ex-Directors and 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 Notice issued in Form No. STK-5 dated 10th March, 2017 followed by another Notice bearing No. ROC-G/248(5)/2017/2949 dated 14.6.2017 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 since the year 2014 as the Board of Directors were not aware about the statutory filings to be made to ROC; the Company is situated in rural area and therefore due to lack of professional guidance and support to the management the Board could not act upon; non-filing of such documents was an inadvertent mistake on the part of management but it was not deliberate; the Company has established its business and operation after a lot of struggle and wishes to continue its business in the interest of the employees, members etc.; and if the name of the Company is not restored the Appellants and shareholders will suffer irreparable loss and hardship.

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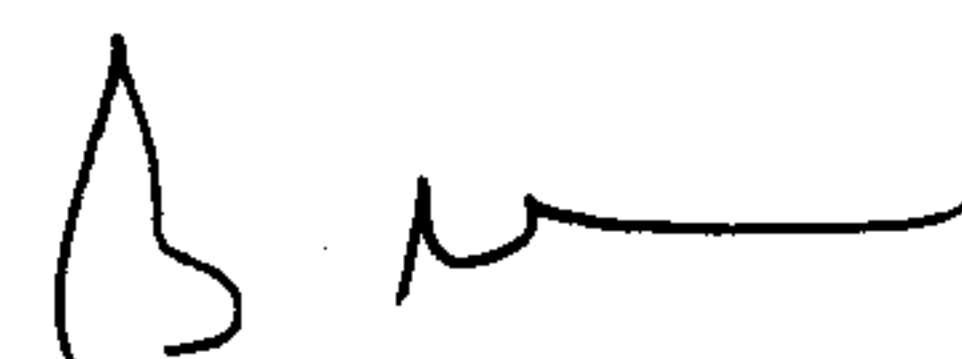
3. Upon issuance of notice, the ROC has filed Report dated 29.11.2017 on 4th December, 2017 and represented that the name of the Company was struck off on suo motu basis on 14.6.2017 due to non-filing of Balance Sheet for the financial years 2014-15 and 2015-16.

4. The Appellants have filed Audited Financial Statements along with Auditor's Report for the years 2014-15 to 2016-17. 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 a member entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Poddar Devcon Private Limited was struck off on 14th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 18th October, 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. Poddar Devcon Private Limited is that the Company has failed to file Annual Returns and Balance Sheet for the financial years 2014-15 and 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 Jawahar Marg, New Road, Shajapur-465001, 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. Poddar Devcon 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.

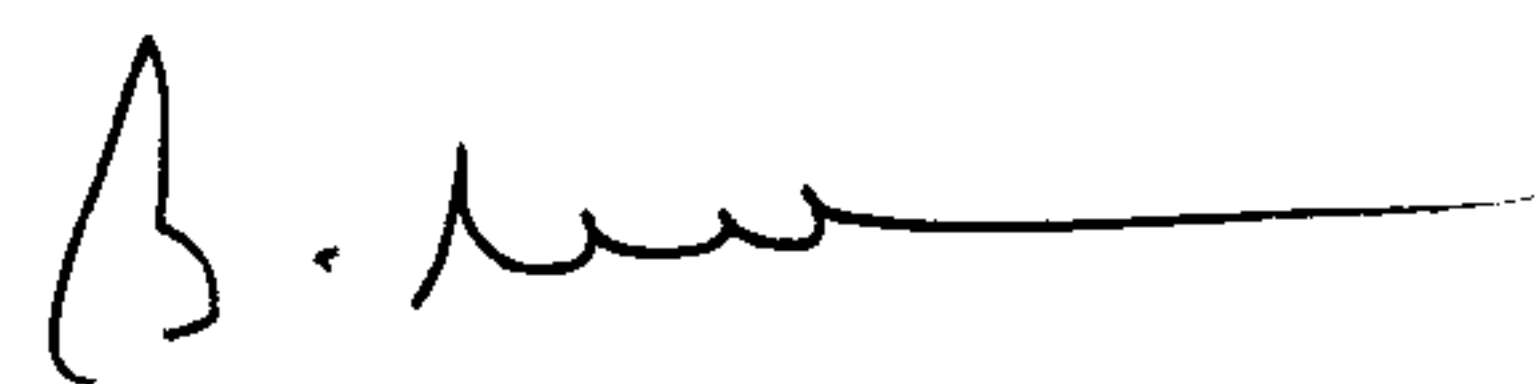
9. The Appeal stands disposed of accordingly.

Signature:



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

Signature:



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

Rmr..