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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 70/252 (3)/NCLT/AHM/2017

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.01.2018**

Name of the Company:

Viny Raj Modi & Ors.
(Shribalaji Reality & Developers Pvt. Ltd.)
V/s.
Registrar of Companies, Gwalior, MP

Section of the Companies Act:

Section 252 (3) 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.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 09th day of January, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 70/252/NCLT/AHM/2017

In the matter of:

Shribalaji Reality and Developers Private Limited

In the matter between:

Mr. Viny Raj Modi,
Ex-Director of Shribalaji Reality
and Developers Private Limited
202, Sagar Plaza, Plot No.250,
Zone II, M.P. Nagar,
Bhopal-462011 M.P.

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh (Gwalior)
3rd Floor, A Block,
Sanjay Complex,
Jayendraganj,
Gwalior-474009
Madhya Pradesh.

: Respondent.

Order delivered on 9th January, 2018.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J)

Appearance:

Mr. Abhishek Modi, with Mr. Samank Mohabe, learned PCSs for the Appellant.

None present for the ROC.

ORDER



1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellant being Member and ex-Director seeking restoration of the name of the Company, namely, Shribalaji Reality 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 Appellants file this Appeal, are as follows;

2.1. The Appellant has submitted that the ROC vide Public Notice No.1 dated 10th March, 2017 issued in Form No. STK-5 proposed to strike off the name of the Company on the ground that the Company has not been carrying on any business or operation for a period of two immediately preceding financial years and have not made any application within such period for obtaining the status of dormant company under Section 455; and further vide Notice No. ROC-G/248(5)/2017/2839 dated 2nd June, 2017 issued in Form No. STK-7 has struck off the name of the Company from the Register of Members.

2.2. The Appellant has submitted that the accounts of the Company were prepared and audited on time but the management faced some business crisis and it got engaged in solving such issues; the Company being laymen was unaware of the legal compliances to be performed; the Company has not received any statutory notice as contemplated under the law; the Company has established its business and operation after a lot of struggle and wishes to continue its business; and failure to file the annual returns and financial statements was unintentional and was not deliberate.

3. Though notice of hearing was served on the Registrar of Companies, Gwalior, the ROC has not filed his objections.

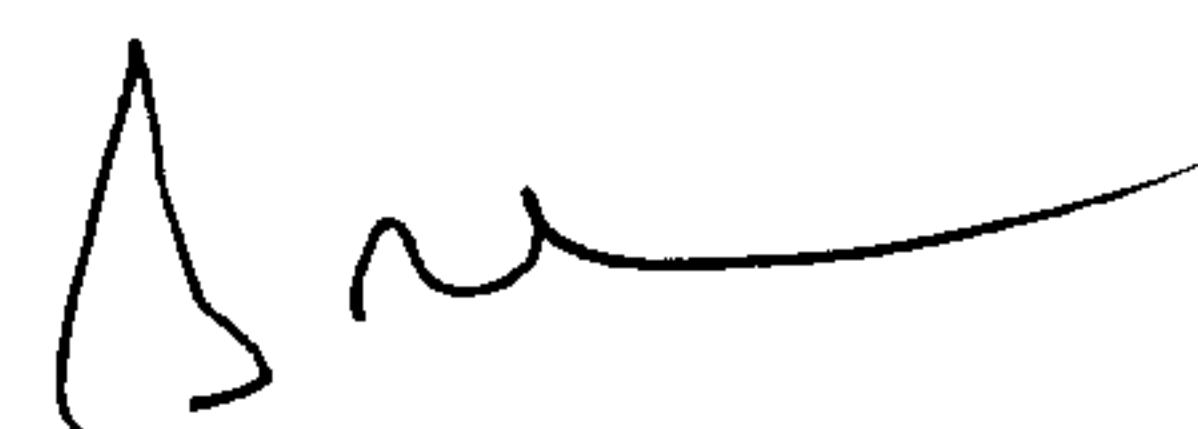
4. The Appellant has filed Affidavit dated 18th December, 2017 on 21st December, 2017 regarding the status of the Bank accounts and status of the Directors and annexed therewith copy of Acknowledgements of Income Tax Return for the financial year 2016-17 and 2017-18; and copy of Certificate of the Chartered Accountant.

5. This Appeal is filed by the Member and ex-Director under Section 252(3) of the Companies Act. The Appellant being Member and ex-Director is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company Shribalaji Reality and Developers Private Limited was struck off on 2nd June, 2017 from the Register of Companies. This Appeal was filed on 07th 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, Shribalaji Reality and Developers Private Limited is that the Company has failed to file statutory Annual Accounts and Returns for few years.

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, Shribalaji Reality and Developers 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:



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

Rmr..