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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 67/252 (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: Mohd. Mehfooz & Ors.
(Kavi Infrastructure 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. 67/252/NCLT/AHM/2017

In the matter of:

M/s. Kavi Infrastructure Private Limited

In the matter between:

1. Vijay Shrivastava
22, Rishi EIST City
Barkhera Pathani
Bhopal-462023 (MP)
2. Mohd Mehfooz
26, Islampura
Bhopal-462001 (MP)
3. Monika Saxena
A-93, B.D.A. Complex,
9-A, Saket Nagar,
Bhopal-462024

: Appellants.

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. R.S. Srivastava, learned PCS for the Appellant.
None present for ROC.

ORDER

1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellants being Members seeking restoration of the name of the Company, namely M/s. Kavi Infrastructure 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 Appellants have submitted that the Registrar of Companies vide Notice issued in Form STK-7 No. ROC-G/248(5)/2017/2915 dated 9th June, 2017 has struck the name of the Company, M/s. . Kavi Infrastructure Private Limited from the Register of Companies. In the earlier notice issued in Form No. STK-5 dated 10th March, 2017 the ROC has stated 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. The Appellants have submitted that the Directors have invested huge amount for completion of project which is at the stage of completion. The Appellants further submitted that due to inadvertence and negligence the Company was unable to file the financial statements and annual returns and never intended to close down the Company.

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

4. The Appellants along with the Appeal filed copies of Balance Sheet and Profit and Loss accounts for the financial years from 2010-11 to 2016-17 duly audited by their Auditors. The Appellants also filed Acknowledgements of Income Tax Returns for Assessment Years 2016-17 and 2017-18 and status of the Directors and Bank accounts along with Affidavit dated 20th December, 2017.

5. This Appeal is filed by the Members under Section 252(3) of the Companies Act. The Appellants being Members are entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company M/s. . Kavi Infrastructure Private Limited was struck off on 9th June, 2017 from the Register of Companies. This Appeal was filed on 13th 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. Kavi Infrastructure 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, M/s. Kavi Infrastructure 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;

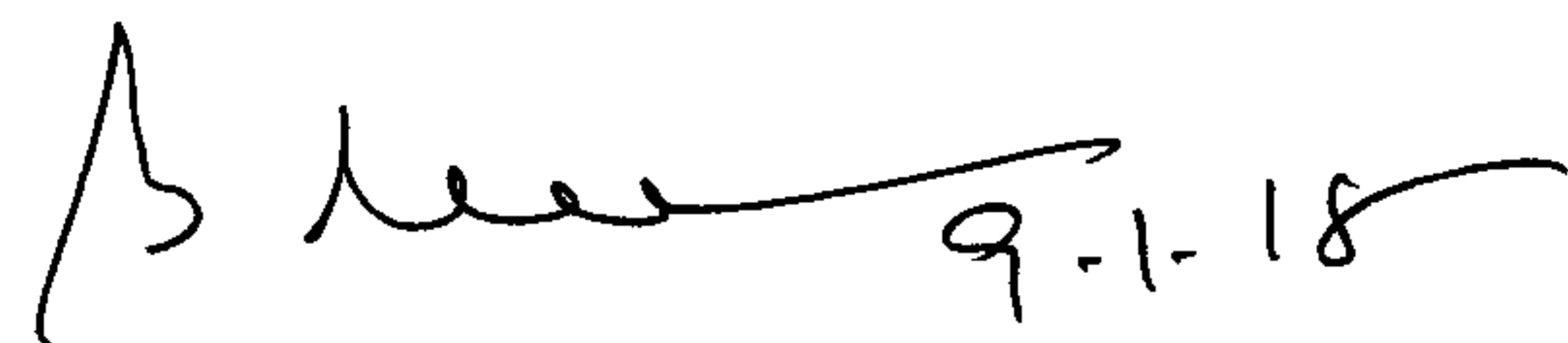
(i) The Appellants shall file all over due statutory returns with fee and additional fee as required under the Companies Act;

(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:

A handwritten signature in black ink, appearing to read 'Bikki Raveendra Babu', followed by the date '9-1-18'.

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

Rmr..