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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. 4/441/NCLT/AHM/2017**

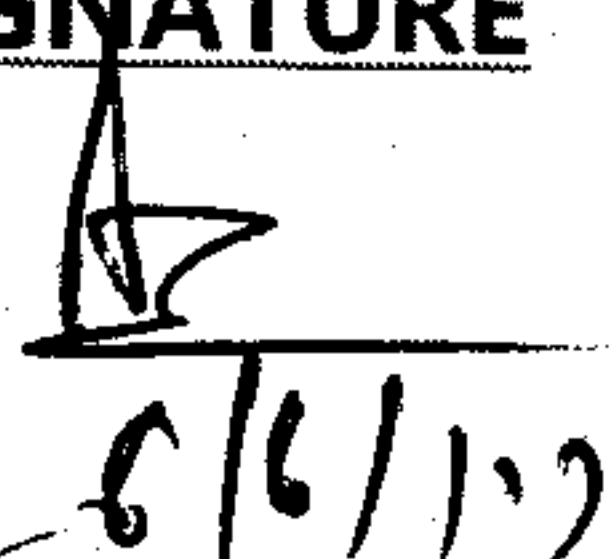
Coram:

**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 06.06.2017**

Name of the Company: Parikh Enterprises Pvt. Ltd.


Section of the Companies Act: Section 134 (3)(o) r.w. 135 of the Companies  
Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Anish Shah	PCS-	parikh ent. p- yed	 6/6/17
2.				

**ORDER**

Learned PCS Mr. Anish Shah present for Petitioner.

Order pronounced in open Court. Vide separate sheet.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 6th day of June, 2017.

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**CORAM: SHRI BIKKI RAVEENDRA BABU, MEMBER (JUDICIAL)**

**C.P. No. 4/441/NCLT/AHM/2017**

Order under section 441 of the Companies Act, 2013  
In the matter of: M/s. **Parikh Enterprises Private Ltd.**

1. M/s. Parikh Enterprises Private Ltd.
2. Paresh Krishnakant Parikh, Managing Director,
3. Arpan Paresh Parikh, Managing Director, ... Petitioners

Appearance:  
Mr. Anish Shah, PCS for Petitioners.

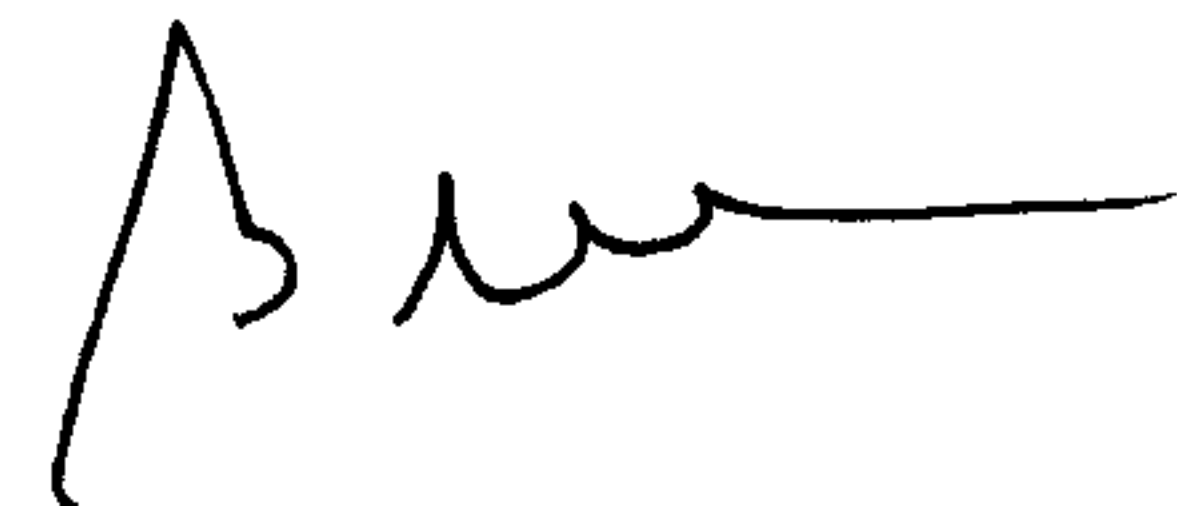
**FINAL ORDER**

**Pronounced on 06.06.2017**

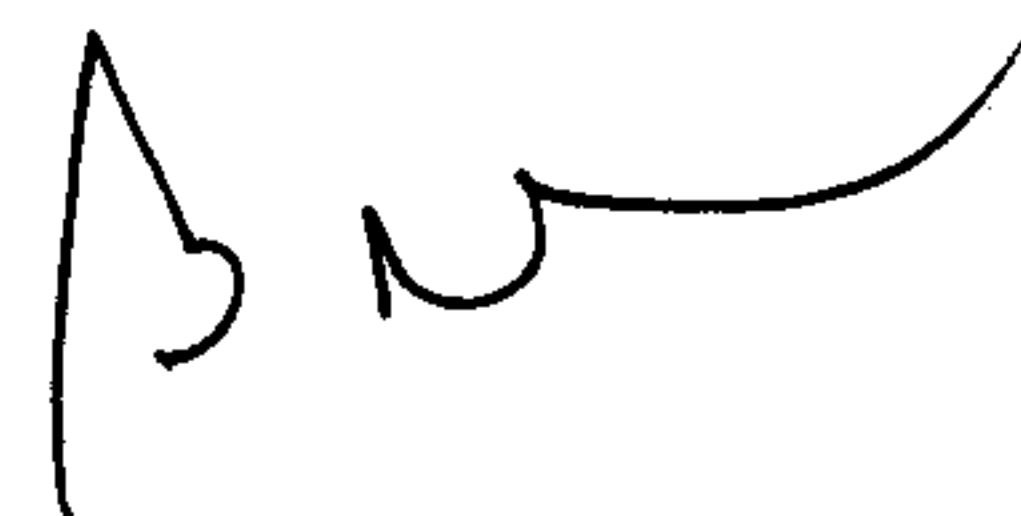
1. M/s. Parikh Enterprises Private Ltd. and its two Managing Directors filed an application before the Registrar of Companies for compounding of offence under section 134(3)(o) of the Companies Act, 2013 punishable under section 134(8) of the companies Act, 2013 for the Financial Year 31.03.2015.
2. Registrar of Companies forwarded the said application to this tribunal along with his report dated 23.12.2016 which was received by this tribunal on 27.12.2016.
3. Parikh Enterprises Private Ltd. had earned net profit of Rs. 5,35,44,880/- during the Financial Year 2013-14. Hence the said company is covered by the provisions of the section 135 of the companies Act, 2013 and becomes eligible for Corporate Social Responsibility activities. The company was therefore required to constitute a Corporate Social Responsibility committee and frame

Corporate Social Responsibility policy to carry out Corporate Social Responsibility activities. The company was required to spend required amount towards Corporate Social Responsibility activities. The company is required to disclose the reasons for not spending or part spending the Corporate Social Responsibility amount in its board report under the provisions of section 134(3)(o) of the Companies Act, 2013 read with Companies (Corporate Social Responsibility Policy) Rules, 2014.

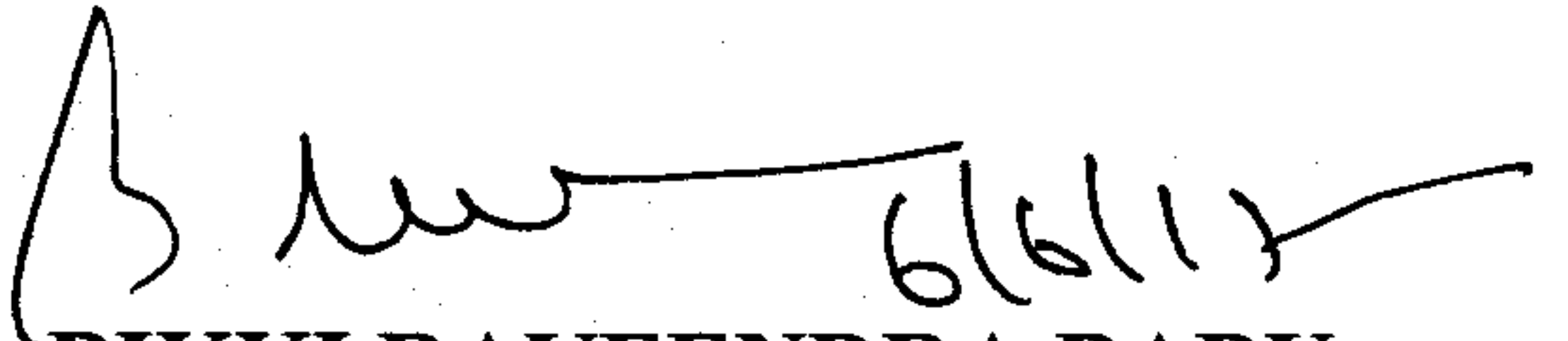
4. Petitioners in their application admitted the violation of 134(3)(o) for the Financial Year ended on 31.03.2015. However, the company has spent substantial amount towards Corporate Social Responsibility activities in the Financial Year 2015-2016. The company has also constituted Corporate Social Responsibility Committee w.e.f. 10.06.2015.
5. Petitioners stated that noncompliance of section 134(3)(o) of the Act, was without any malafide intention to violate the provisions of the Act.
6. The ROC in its report stated that the company is not included in the list of vanishing companies and the company has not compounded similar offence during the last three years.
7. Section 441 is the relevant provision that governs the procedure for compounding of offences before this Tribunal. Section 441 says that any offence punishable under the provisions of Companies Act, 2013 committed by the company or its directors or officers if punishable with fine only may either before or after the institution of prosecution be compounded by the tribunal.
8. In view of the above said procedure contemplated under section 441 of the Companies Act, 2013, this tribunal is empowered to compound the offences that are punishable with fine only under the provisions of Companies Act, 2013 either before or after institution of prosecution.



9. In this context it is necessary to examine what is the punishment provided for violation of section 134(3)(o), which is provided under section 134(8) of the companies Act, 2013.
10. Section 134(8) provide two different kinds of punishment, One for the company and the other for its officers. The punishment provided for the company is fine, which shall not be less than Rs. 50,000/- but which may extend to Rs. 25,00,000/-. The punishment provided for the officers of the company, who is in default, is imprisonment for a term which may extent to 3 years or with fine which shall not be less than Rs. 50,000/- or with both.
11. In view of the said punishment provided for the officers of the company, this tribunal has no power to compound the offence in respect of Petitioners 2 and 3 who are the MD's of the company. However, this tribunal can compound the offence in Respect of 1<sup>st</sup> petitioner company.
12. It is stated that the company has constituted Corporate Social Responsibility committee and also spend the required amount for Corporate Social Responsibility activities in the Financial Year 2015-16. It is also stated that it being a new provision the company was not able to comply with the provisions relating to Corporate Social Responsibility activities.
13. Considering explanation given by the Petitioner No. 1, this tribunal is of the considered view that an amount of Rs. 1,00,000/- is sufficient for compounding violation of section 134(3)(o) of the Act.
14. In the result this petition is dismissed in respect of Petitioners 2 and 3 with a direction to the Registrar of Companies to take appropriate action as per the provisions of companies Act, 2013.
15. Petition is allowed in respect of 1<sup>st</sup> petitioner company.



16. First petitioner company shall pay an amount of Rs. 1,00,000/- by way of Demand Draft drawn on any Nationalized bank in favour of Pay and Accounts Officer, MCA, Mumbai within three weeks from the date of this order and file the original Demand Draft before the registry on or before 29.06.2017.
17. In case, 1<sup>st</sup> petitioner company fails to pay amount as ordered above, the Registrar of Companies Gujarat shall take appropriate action including prosecution, as per applicable law under intimation to this tribunal forthwith.
18. This Petition is disposed of accordingly. Sent copy of this order to 1<sup>st</sup> Petitioner for compliance and Registrar of Companies.
19. 1<sup>st</sup> petitioner shall report compliance of order on 04.07.2017. List the matter of 04.07.2017 for reporting of compliance.

  
**BIKKI RAVEENDRA BABU**  
**MEMBER(JUDICIAL)**

Place: Ahmedabad  
Date: 06.06.2017