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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 72/252/NCLT/AHM/2018

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 28.03.2018**

Name of the Company: Shashank Jain
(Neminath Real Estate Pvt Ltd.)
V/s.
Registrar of Companies, Gwalior

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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2.

ORDER

None present for the Appellant. None present for the ROC.

Order pronounced in the open court. Vide separate sheets.


**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 28th day of March , 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 72/252(3)/NCLT/AHM/2018

In the matter of:

M/s. Neminath Real Estates Private Limited.

In the matter between :

Mr. Shashank Jain,
Member of
M/s. Neminath Real Estates
Private Limited,
Registered Office at
9/2, South Tukoganj,
Indore-452001 M.P.

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh (Gwalior)
3rd Floor, A Block,
Sanjay Complex,
Jayendraganj,
Gwalior-474001
Madhya Pradesh.

: Respondent.

Order delivered on 28th March, 2018.

Coram: Hon'ble Ms. Manorama Kumari, Member (J).

Appearance:

Mr. Vishwaskumar Sharma, learned PCS for the Appellant.

None present for Registrar of Companies.

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ORDER

1. By way of this Appeal filed under Section 252(3) of the Companies Act, 2013, the Appellant seeks for restoration of the name of the Company, i.e., M/s. Neminath Real Estates Private Limited as its Member, in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["ROC" for short].

2.1. It is stated that the ROC vide Public Notice No.1 dated 10.3.2017 issued in Form No. STK-5 followed by Notice No. ROC-G/248(5)/2017/2915 dated 9.6.2017 issued under sub-section (5) of Section 248 of the Companies Act, 2013, has struck off the name of the Company from the Register of Companies inter alia 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.

2.2. It is submitted, that the Directors and Members of the Company have taken sincere efforts and invested sizeable amount of money and time for establishing and running the Company; the Company is a going concern; no public interest is involved as such in the Company; and though Annual General Meetings were held in time and Income-tax returns were filed, due to lack of knowledge in

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the Company Law matters the Company had not hired services of experts in the field which led to non-filing of statutory documents.

2.3. The Appellant has filed copy of list of shareholders; copies of Annual Reports for the financial years 2013-14 to 2015-16; copies of acknowledgement for filing of Income Tax Returns for the financial years 2013-14 to 2015-16; copy of Bank Statement etc., along with the Appeal.

3. In spite of notice being served on the Respondent/ROC, the ROC has not filed any Reply before this Tribunal.

4. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act and he, being a Member, is entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Neminath Real Estates Private Limited was struck off on 9th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 1st February, 2018. Therefore, this Appeal is within time.

5. From the material available on record, the only reason for striking off the name of the Company, M/s. Neminath Real Estates Private Limited, is that the Company has failed to file Annual Returns

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and Balance Sheets with the Registrar of Companies from the financial year 2013-14 onwards.

6. The material on record also goes on to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at South Tukoganj, Indore, Madhya Pradesh.

7. 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. Neminath Real Estates Private Limited, in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

8. In view of the above, the instant Appeal is allowed directing the Registrar of Companies, Gwalior, Madhya Pradesh to restore the name of the Company in the Register of Companies upon Appellant's 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

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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. 25,000/- 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)**

Rmr..