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NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD

Co. Appeal No. 11/252(3)/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 05.03.2018**

Name of the Company: Rajesh Thahirani & Anr.  
(Leeway Developers Pvt Ltd)  
V/s.  
ROC 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>
1.	CS IP MANISH BUCHASIA	PCS COP 4156	Applicant	Manish Buchasia
2.				

**ORDER**

Learned PCS Mr. Manish Buchasia present for Appellant. None present for ROC.

Order pronounced in open court. Vide separate sheets.

  
**MANORAMA KUMARI  
MEMBER JUDICIAL**

Dated this the 5th day of March, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 11/252(3)/NCLT/AHM/2018**

**In the matter of:**

Leeway Developers Private Limited

**In the matter between:**

1. Shri Rajesh Thahirani  
1, Triveni Colony Extension,  
Manik Bagh Road  
INDORE 452 001 MP
  
2. Shri Mahesh Thahirani,  
1, Triveni Colony Extension,  
Manik Bagh Road  
INDORE 452 001 MP

: Appellants

**Versus**

Registrar of Companies,  
Jayendra Ganj, Sanjay Complex  
Gwalior (M.P.)

Respondent.

**Order delivered on 5th March, 2018.**

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

**Appearance:**

Mr. Manish Buchasia, learned PCS for the Appellants.

None present for Registrar of Companies.



**ORDER**

1. By way of this Appeal, members/Directors of the Company namely, Leeway Developers Private Limited, seeks for restoration of the name of the Company which was struck off from the Register of Companies by the Registrar of Companies, Gwalior, Madhya Pradesh ["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 Public Notice No. ROC-G/248(5)/2017/4268 dated 28.07.2017 issued in Form No. STK-7 followed by final notice 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 with effect from 28.07.2017 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.

3. The Appellant has submitted that the ROC has struck off the Company's name from the Register of Companies due to defaults in statutory compliances, namely failure to file Financial Statements and Annual Returns for the period 2011-12 to 2016-17. The Appellant



has further submitted financial statements and income tax return for the years 2013-14 to 2015-16, list of present shareholders, extract of list of directors of company disqualified by ROC, proof of service of copy of petition to respondent etc.

4. On notice being issued and served upon the ROC, the ROC has filed reply dated 30.01.2018 through his Deputy Registrar along with his Affidavit wherein it is represented that the name of the Company was struck off from the Registrar of Companies on suo motu basis on 28.07.2017 due to non-filing of Annual Returns and Balance Sheet for the Financial Year 2010-2011 to 2016-2017.

5. This Appeal is filed by the Appellants under Section 252(3) of the Companies Act and they being a Shareholders is entitled to file the Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, Leeway Developers Private Limited, was struck off on 28<sup>th</sup> July, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 5<sup>th</sup> January, 2018. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Company, Leeway Developers Private Limited, is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies since incorporation.

7. 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 1, Triveni Colony Extension, Manik Bagh Road, INDORE 452 001 (MP)

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 Leeway Developers 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.

9. In view of the above, the instant Appeal is allowed and the Registrar of Companies, Gwalior, Madhya Pradesh, is directed 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 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;

*J. K. Jaiswal*

- (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.

10. The Appeal stands disposed of accordingly.

Signature:



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

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