

32  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD

Co. Appeal No. 31/252/NCLT/AHM/2018

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL  
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.04.2018

Name of the Company: Saurabh Garg  
(Ram Kunwar Construction 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>
--------------	-------------------------------	--------------------	-----------------------	------------------

1.

2.

**ORDER**

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

*The* Order pronounced in the open Court. Vide separate sheets.

*Manor*  
MANORAMA KUMARI  
MEMBER JUDICIAL

*Harihar*  
HARIHAR PRAKASH CHATURVEDI  
MEMBER JUDICIAL

Dated this the 4th day of April, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 31/252(3)/NCLT/AHM/2018**

**In the matter of:**

Ram Kunwar Construction Private Limited.

**In the matter between:**

1. Surag Garg  
85, Vinay Nagar  
Sector-2  
Gwalior 474 012 (M.P.) : Appellants

**Versus**

Registrar of Companies,  
3<sup>rd</sup> Floor, 'A' Block,  
Sanjay Complex  
Jayendra Ganj, Gwalior 474 009 (M.P.) Respondent

**Order delivered on 04<sup>th</sup> April, 2018.**

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)  
Hon'ble Ms. Manorama Kumari, Member (J).**

**Appearance:**

Learned PCS Mr. Rajesh Lohia present for appellant. None Present for ROC.

**ORDER**

**(Per: Hon'ble Ms. Manorama Kumari, Member, Judicial)**

1. By way of this Appeal, members/Directors of the Company namely, Ram Kunwar Construction 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 Appellant to file this Appeal, are as follows;
3. It is stated that the ROC vide Public Notice No. ROC-G/248(5)/2017/2771 dated 26.05.2017 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 26.05.2017 due to defaults in statutory compliances, namely, failure to file financial statements and annual return for the period 2009-10 to 2016-17 and have not made any application within such period for obtaining the status of dormant company under Section 455.





4. The Appellant 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 2009-10 to 2016-17. The Appellant has submitted copies of Financial Statements and Annual Returns for the period 2009-10 to 2015-16.
  
5. On Notice being issued and order of notice being served on the ROC, the ROC filed Representation dated 19<sup>th</sup> February, 2018 wherein while denying the allegations made and contentions raised in the Appeal, the ROC has represented that the Company has failed to file its statutory returns viz., Balance Sheets and other returns with the ROC since incorporation and hence the name of the Company has been struck off.
  
6. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act and he being a Shareholder/Director is entitled to file the Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, Ram Kunwar Construction Private Limited, was struck off on 2<sup>nd</sup> June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 29<sup>th</sup> January, 2018. Therefore, this Appeal is within time.







7. From the material available on record, the only reason for striking off the name of the Company, Ram Kunwar Construction Private Limited, is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies since its incorporation.
8. 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 303, Akansha Apartment, City Center, Gwalior, (M.P.)
9. 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 Ram Kunwar Construction 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.
10. 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

*Abhinav*



Act; and other laws within stipulated period stated therein, or within 90 days from the receipt of an authentic copy of this order and after restoration of its name in the Register of ROC, Gwalior.

- (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. 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 and shall file compliance.

11. The Appeal stands disposed of accordingly.

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

  
**Harihar Prakash Chaturvedi,**  
**Member (Judicial)**

nair