

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

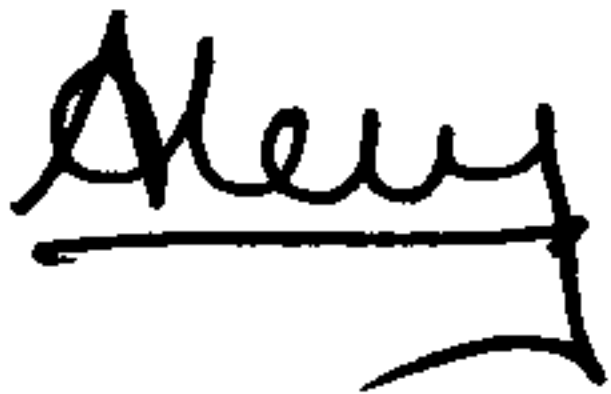
**Co. Appeal No. 169/252(3)/NCLT/AHM/2018**

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 29.08.2018**

Name of the Company: Amit Kumar Jain.  
(Shankeshwar Alloys Pvt Ltd)  
V/s.  
Registrar of Companies, 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>
1.	ALAY VASAVADA	PCS	APPELLANT	
2.				

**ORDER**

PCS Mr. Alay Vasavada is present for the Appellant.

The Order is pronounced in the open court, vide separate sheet.



**MANORAMA KUMARI**  
**MEMBER JUDICIAL**  
Dated this the 29<sup>th</sup> day of August, 2018



**HARIHAR PRAKASH CHATURVEDI**  
**MEMBER JUDICIAL**

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 169/252(3)/NCLT/AHM/2018**

**In the matter of:**

**M/s. Shankeshwar Alloys Private Limited**

**In the matter between:**

Mr. Amit Kumar Jain  
51, Azad Nagar  
Ujjain- 456 010 (M.P.)

Appellant

**Versus**

Registrar of Companies,  
IIIrd Floor, 'A' Block,  
Sanjay Complex,  
Jayendraganj  
Gwalior (M.P.)

Respondent

**Order delivered on 29<sup>th</sup> August, 2018**

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

**Appearance:**

PCS Mr. Alay Vasavada is present for the appellant.

**ORDER**

**Per: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)**

1. By this Appeal, the Company namely, M/s. Shankeshwar Alloys Private Limited, seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short] by its impugned order dated 30.06.2017 has struck off the name of the company. Being aggrieved with this action the appellant being



director/shareholder of the company has prayed for the following relief: -

- (i) to allow this appeal to restore the name of Shankeshwar Alloys Private Limited in the register of companies maintained by the Registrar of Companies, Gwalior;**
- (ii) to give direction to the respondent to change the status of the appellant No. 1 from strike off to active enabling the appellant to file pending financial statements;**
- (iii) any other and further relief deemed just and proper be granted in the interest of justice;**

2. The facts in brief, those are necessary for disposal of the present Appeal are stated as under;
  
- 3 It is stated that the ROC vide its Public Notice No. ROC-G/248(5)/2017/3947 dated 30.06.2017 (issued in Form No. STK-7) followed by final notice (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 with effect from 30.06.2017 inter alia on the ground that the Company has not filed Annual Returns and Balance Sheets for the financial year 2013-14 to 2016-17 nor it made any application to the ROC within such period for obtaining the status of dormant company under Section 455.
  
4. It is submitted by the appellant that the company is in the business of manufacture, purchase and convert and to trade and deal in iron and steel, scrip insulated wires and cables, conductors insulated wires etc.





5. The appellant has submitted that non-filing of financial statements and annual returns with the respondent occurred accidentally and inadvertently without any mala fide/wilful intention and the appellant company is still operative and carrying out its business and no opportunity of being heard was granted.
6. The appellant company M/s. Shankeshwar Alloys Private Limited was incorporated on 20<sup>th</sup> July, 2011 with the Registrar of the Companies, Gwalior. Registered office of the company is situated at 30-A, Udyogpuri, Agar Road, Ujjain, Madhya Pradesh - 456 006.
7. In the present appeal, representation of ROC, Gwalior dated 31<sup>st</sup> July, 2018 is received, wherein it is averred that the appeal may be considered on merits subject to filing of Balance Sheet due for financial year from 2013-14 onwards with additional fees as per the requirement of the Companies Act, 2013/1956.
8. Representation is received from the Income-tax Department wherein nothing adverse has been reported. The appellant submitted affidavit dated 21.04.2018 confirming that it is not a shell company, no unusual transaction took place during the demonetisation period, it has filed all its income tax returns with income tax department since incorporation and the company shall make all necessary compliances that may be required under the Companies Act, 2013 and Rules thereunder.

*Handwritten signature*

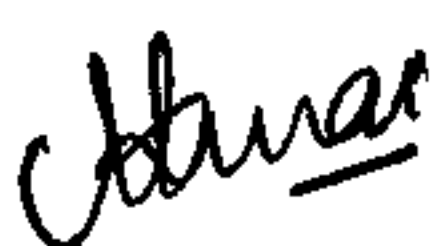
9. The Appellant, Mr. Amit Kumar Jain has filed the present appeal under Section 252(3) of the Companies Act as being Director of the company, he is entitled to file the same seeking for restoration of the name of the Company. Therefore, the present Appeal is found maintainable. Further the name of the Company, M/s. Shankeshwar Alloys Private Limited, was struck off on 30.06.2017 from the Register of Companies and the same was got published in the Gazette of India. While the present Appeal is filed on 2<sup>nd</sup> April, 2018, hence the Appeal is filed well within limitation.
10. On perusal of the material available on record, the main reason shown for striking off the name of the Company is that the Company failed to file its Annual Returns and Balance Sheets with the Registrar of Companies in time.
11. 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. Shankeshwar Alloys 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.
12. 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;


*Atwar*

*g*

- (i) The Appellant shall file all over due statutory returns with fee and additional fee as required under the Companies 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 is further directed to pay an amount of Rs. 25,000/- to the Central Government, Ministry of Corporate Affairs through the Office of the ROC 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 receipt of an authentic copy of this order and shall file compliance.

13. The Appeal stands disposed of accordingly.

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

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

nair