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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 102/252/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 24.04.2018**

Name of the Company: Atul Kumar Jain & Anr.
(Porwal Finsec Pvt Ltd.)
V/s.
Registrar of Companies

Section of the Companies Act: Section 252 (3) of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE


1.

2.

ORDER

None present for the Appellant. None for the ROC.

The order pronounced in the open court. Vide separate sheets.


MANORAMA KUMARI
MEMBER JUDICIAL
Dated this the 24th day of April, 2018.


HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 102/252(3)/NCLT/AHM/2018

In the matter of:

Porwal Finsec Private Limited

In the matter between:

1. Mr. Atul Kumar Jain
Kanti Mansion
6, Murai Mohalla
INDORE 452 001
Madhya Pradesh : Applicant No. 1

2. Mr. Pravin Kantilal Jain
Kanti Mansion
6, Murai Mohalla
INDORE 452 001
Madhya Pradesh : Applicant No. 2

Versus

Registrar of Companies,
Office of the Registrar of Companies (M.P.)
Sanjay Complex
A-3, 3rd Floor, Jayendraganj
Gwalior, Madhya Pradesh

Respondent

Order delivered on ~~24th~~ April, 2018.

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

Appearance:

Learned advocate Mrs. Natasha Shah is present for the appellant.
None is present for Registrar of Companies.





ORDER

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

1. By way of this Appeal, member/Director of the Company namely, seeks for restoration Porwal Finsec Private Limited 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)/2017/2949 dated 14.06.2017 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 14.06.2017 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.
4. The Appellant submitted that the ROC has struck off the Company's name from the Register of Companies due to its failure to commence its business within one year of its

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incorporation and not carrying on any business or operation for a period of two immediately preceding financial years. The Appellant has submitted that the Company seems to be inoperative since the date of incorporation due to some unavoidable circumstances.

5. On Notice being issued and order of notice being served on the ROC, the ROC filed Representation dated 20th March, 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, Porwal Finsec Private Limited was struck off on 09th June 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 06th March, 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, Porwal Finsec 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 Kanti Mansion, 6-Murai Mohall, Indore 452 001, Madhya Pradesh.
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 Porwal Finsec 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 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, Madhya Pradesh.



- (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)

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