

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

Co. Appeal No. 326/252(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 10.09.2018**

Name of the Company: Dhaval R. Patel & Anr.  
(Shelvi Developers Pvt. Ltd.)  
V/s.  
Registrar of Companies, Gujarat.

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	<del>BHARTRAW</del>	<del>KORLA</del>	<del>ADVOCATE</del>	<del>RETIREE</del>
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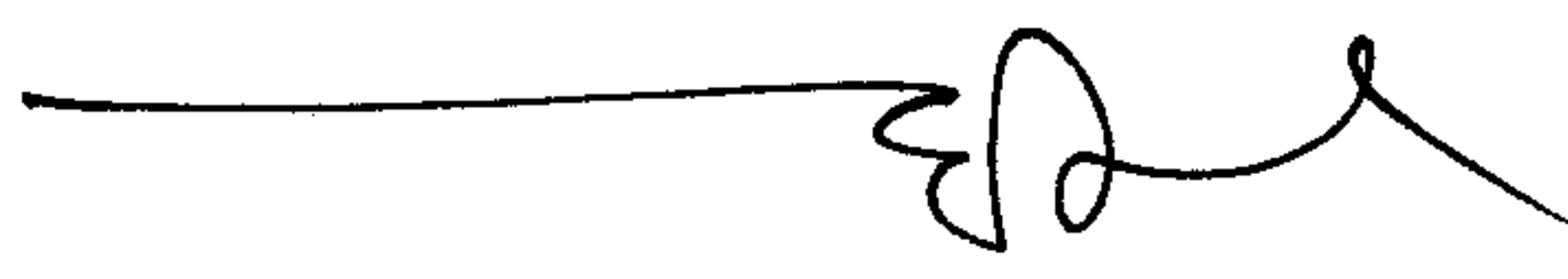
2.

**ORDER**

None present for the Appellant

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

  
**MANORAMA KUMARI**  
(MEMBER JUDICIAL)

  
**HARIHAR PRAKASH CHATURVEDI**  
(MEMBER JUDICIAL)

Dated this the 10th day of September, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 326/252(3)/NCLT/AHM/2018**

**In the matter of:**

**M/s. Shelvi Developers Private Limited**

**In the matter between:**

1. Mr. Dhaval R. Patel  
29, Paras Bungalows,  
Prahladnagar, Anandnagar Road  
Satellite  
Ahmedabad 380 051 : Appellant No.1
2. Smt. Nishita D. Patel  
29, Paras Bungalows,  
Prahladnagar, Anandnagar Road  
Satellite  
Ahmedabad 380 051 : Appellant No.2

**Versus**

Registrar of Companies,  
ROC Bhavan  
Opp. Rupal Park  
Nr. Ankur Bus Stand  
Naranpura  
Ahmedabad 380 013 : Respondent

**Order delivered on 10th September, 2018.**

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

**Appearance:**

PCS Mr. Vijay Limbachiya is present for the appellant.

**ORDER**

**(Per: Ms. Manorama Kumari, Member (J))**

1. By this Appeal, the Company namely, M/s. Shelvi Developers Private Limited, seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Ahmedabad, Gujarat





["ROC" for short] by its impugned order dated 21.06.2017 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) **direct the Registrar of Companies, Gujarat to restore the name of the company in the Register of Companies maintained in the office of the Registrar of Companies as its name had not been struck off from the rolls of the Register;**

2. The facts of the present case as narrated in the present appeal, are described as under: -

That M/s. Shelvi Developers Private Limited was originally incorporated on 13.05.2009 with the Registrar of Companies, Gujarat. It is contended that the Registrar of the Companies vide its Notice No. ROC/AHMD/248(5)/STK-7/PUB/1 dated 21.06.2017 (issued in Form No. STK-7) followed by a final notice issued under sub-section (5) of Section 248 of the Companies Act, 2013, has struck off the name of the Company from its register with effect from 21.06.2017, stating such ground that the Company has failed to file its statutory returns since incorporation nor it applied within such period to the ROC for obtaining a status of dormant company under the provisions of the Companies Act.

3. On Notice being issued to and order of notice being served upon the ROC, has filed his Representation affidavit dated 25<sup>th</sup> April, 2018 by denying the allegations made and contentions of the appellant, it has justified its action by saying that the Company has failed to file its statutory returns viz., Balance Sheets and



other returns with the ROC since incorporation and due to such lapses the name of the Company stood struck off.

4. Notwithstanding the above, the ROC, Ahmedabad in same representation has further contended that this court may pass an appropriate order for restoration of the name of the company subject to following conditions: -

- (i) ***The petitioner will file all the overdue statutory returns viz. Balance sheet and Annual Return for the years which have not been filed and also other event based documents, if any, with fees and additional fees as required under the Companies Act, 2013.***
- (ii) ***The publication of notice in two leading newspapers circulating in the district and official Gazette of Government of India, in regard to the restoration of the name of the company on the register maintained in the office of the respondent as per the draft approved by the respondent, at the cost of the petitioner.***
- (iii) ***The petitioner will ensure that the company will not make any default in filing of statutory returns in future as required under the Companies Act, 2013.***
- (iv) ***The Tribunal may please be direct the petitioner to pay cost as may deem fit and proper to the Registrar of Companies for restoring the name of the company under Section 252 (3) of the Act as the respondent had incurred expenditure on sending notices, publication of notices in newspaper and official gazette in respect of striking off companies.***
- (v) ***such other order as may be deemed fit and proper by this Tribunal under the circumstances of the case.***

5. The appellants have filed the instant appeal under Section 252(3) of the Companies Act as being Shareholders/Directors of the deregistered company. Hence they are eligible to file the same seeking for restoration of the Company's name in the register of the ROC, Ahmedabad. Hence, the present Appeal is found maintainable. As the name of the Company M/s. Shelvi Developers Private Limited was struck off on 21<sup>st</sup> June, 2017 from the Register of Companies followed by a publication in the Gazette of India, while the present appeal is filed on 05<sup>th</sup> June, 2018. Hence it is filed well within limitation.

*Shelvi*

*[Signature]*

6. As per the material available on record, the main reason shown for striking off the name of the Company is that M/s. Shelvi Developers Private Limited failed to file Annual Returns and Balance Sheets with the Registrar of Companies since incorporation.
7. A perusal of the contents of the present appeal and documents annexed therewith goes to show that the Company is a going concern and has been doing business. The Registered Office of the Company is situated at 29, Paras Bungalows, Prahladnagar Anandnagar Road, Satellite, Ahmedabad 380 051, Gujarat State.
8. The appellants have submitted that the company was incorporated with an object to carry on the business as organiser, developer, contractor, dealer of any land, residential building, commercial building, hotels, offices etc.
9. The learned lawyer appearing on behalf of the appellants filed additional affidavit declaring and confirming that the company is not a shell company and no unusual transactions were made during demonetisation period.
10. Representation from Income Tax Department is received stating that there is no outstanding demand and no appeal is pending against the company.

*Harwar*



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. Shelvi Developers Private Limited in the Register of Companies maintained by the ROC, Ahmedabad, Gujarat, 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 in terms of its relief clause. Consequently, the Registrar of Companies, Ahmedabad, Gujarat is directed to restore the name of the Company in the Register of Companies but subject to the following conditions complied by the appellant: -
  - (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, Ahmedabad.
  
  - (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;

*Answer*


*[Signature]*

- (iii) The Appellant shall also pay an amount of Rs. 25,000/- to the Central Government, Ministry of Corporate Affairs through Office of the ROC, Gujarat 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.

13. Accordingly the appeal is allowed and stands disposed of.



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



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