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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 85/252(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 10.04.2018**

Name of the Company: Hemant Maheshwari & ors.  
(Shri Satpuda Warehousing 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>
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1.


2.

**ORDER**

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

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

  
**MANORAMA KUMARI  
MEMBER JUDICIAL**

  
**HARIHAR PRAKASH CHATURVEDI  
MEMBER JUDICIAL**

Dated this the 10th day of April, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 85/252(3)/NCLT/AHM/2018**

**In the matter of:**

1. Hemant Maheshwari  
651, Bankhedhi,  
The.Bankhedhi,  
Dist.Hoshangabad (M.P.)
  2. Vivek Maheshwari, HUF,  
Karta, Mr. Vivek Maheshwari,  
Gadarwara Road,  
Village Thaini,  
Bankhedhi,  
Hosangabad (M.P.)
  3. Anil Maheshwari, HUF,  
Karta Mr.Anil Maheshwari,  
Gadarwara Road,  
Village Thaini,  
Bankhedhi,  
Hoshangabad (M.P.)
  4. Kishore Maheshwari, HUF,  
Karta Mr. Kishore Maheshwari,  
Thaini,  
Bankhedhi,  
Hosangabad (M.P.).
- : Appellants.

Versus

Registrar of Companies,  
Madhya Pradesh (Gwalior)  
3rd Floor, A Block,  
Sanjay Complex,  
Jayendraganj,  
Gwalior-474001  
Madhya Pradesh.

: Respondent.

Order delivered on 10<sup>th</sup> April, 2018.

*Humar*



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

**Appearance:**

Mr. Jatin Kapadia, on behalf of Mr. Pratik Tripathi, learned PCS for the Appellant.

None present for the Registrar of Companies.

**ORDER**

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

1. By way of this Appeal filed under Section 252(3) of the Companies Act, 2013, the Appellants who are Promoters and Shareholders of the Company, namely, Shri Satpuda Warehousing Private Limited, seek for restoration of the name of the said Company in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["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.1 dated 10.3.2017 issued in Form No. STK-5 followed by Notice No. ROC-G/248(5)/2017/2839 dated 2<sup>nd</sup> June, 2017 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 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.

2.2. The Appellants have submitted that the Company is a profit making Company which is still running and operative; the Company has yet to file Financial Statements and Annual Returns for the Financial Years 2013-14 to 2016-17 which were not filed due to inadvertence and there is no wilful default on the part of the Company; if the name of the Company is not restored it will result in irreparable harm to the Appellants, etc.

2.3. The Appellants have filed copies of Audited Financial Statements for Financial Years 2013-14 to 2016-17; copy of statement of account of their Bankers; copy of list of shareholders; copy of Income Tax Return for Assessment Year 2016-17 etc.

3. On Notice being issued and served upon the Respondent/ROC, the ROC filed Reply dated 9.3.2018 stating that the name of the Company was struck off on *suo motu* basis on 02.6.2017 due to non-filing of Annual Returns and Balance Sheet for the financial years from 2013-14 to 2016-17.

*Utkarsh*



4. In pursuance of the order issuing notice, the Appellants have filed an Affidavit dated 13.3.2018 clarifying position of unusual transactions during the demonetization period and position with regard to the shell Company.

5. This Appeal is filed by the Appellants under Section 252(3) of the Companies Act and they, being the Promoters and Shareholders, are entitled to file it seeking restoration of the name of the Company, Shri Satpuda Warehousing Private Limited. Therefore, this Appeal is maintainable. The name of the Company, 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 23<sup>rd</sup> February, 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 Shri Satpuda Warehousing Private Limited is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies from the financial year 2013-14 onwards.

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 Old Galla Mandi, Pipariya, Madhya Pradesh-461775.

*Adhwar*



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 Shri Satpuda Warehousing 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 directing the Registrar of Companies, Gwalior, Madhya Pradesh to restore the name of the Company in the Register of Companies upon Appellants complying with the following conditions;

(i) The Appellants shall file all over due statutory returns with fee and additional fee as required under the Companies Act;

(ii) The Appellants 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 Appellants 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.

10. The Appeal stands disposed of accordingly.

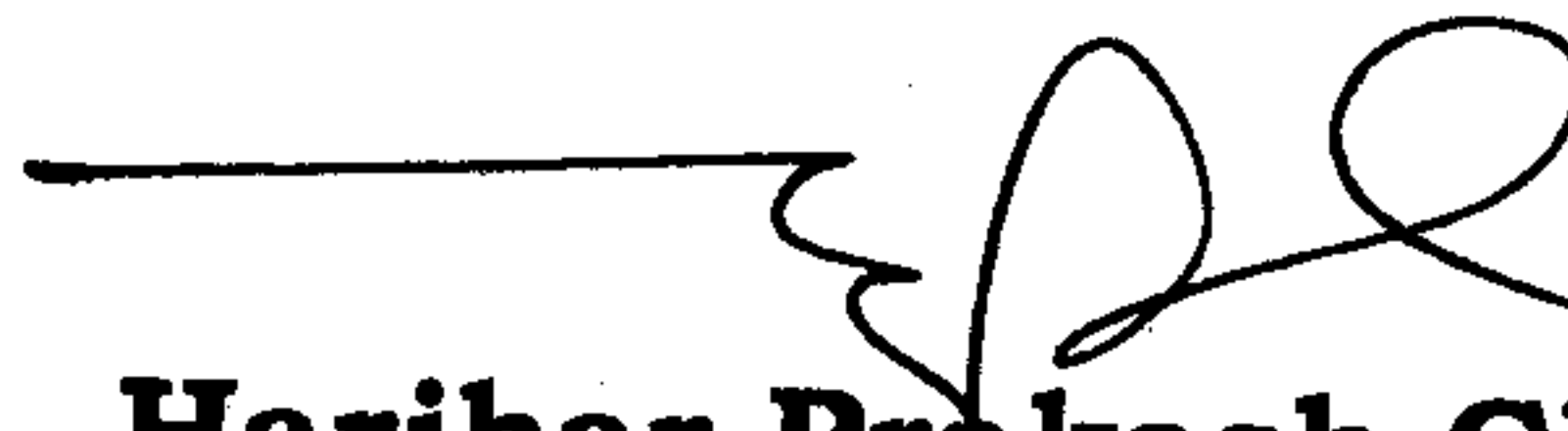
Signature:



**Manorama Kumari,  
Member (Judicial)**

Rmr..

Signature:



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