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NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Co. Appeal No. 79/252/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 10.04.2018

Name of the Company: Khursheed Rohinton Engineer
(R D Engineer Investor Pvt Ltd.)
V/s.
Registrar of Companies, Gujarat

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.

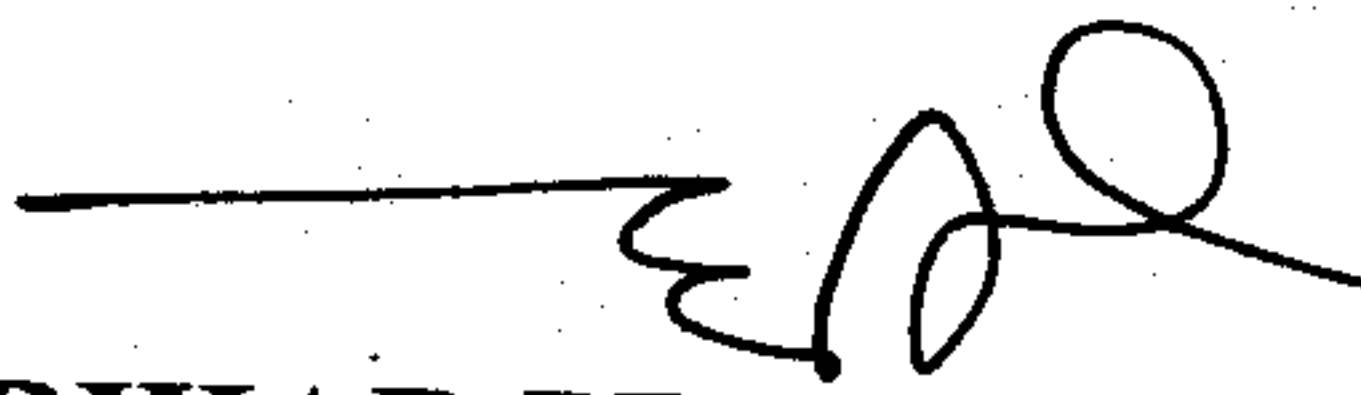
2.

ORDER

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

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

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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. 79/252(3)/NCLT/AHM/2018

In the matter of:

M/s. R.D. Engineer Investor Private
Limited,
Registered Office at
56, Haribhakti Colony Extension,
B/H Baroda Heart Institute,
J.P. Road, Race Course Circle,
Vadodara-390007
Gujarat.

: Appellant.

Versus

The Registrar of Companies, Gujarat,
ROC Bhavan, Opp: Rupal Park Society,
Behind Ankur Bus Stop, Naranpura,
Ahmedabad-380013.

: Respondent.

Order delivered on ~~10th~~ April, 2018.

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

Appearance:

Mr. Haresh Kapuriya, 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, through Director/Shareholder of the





Company, the Appellant above named, seeks order for restoration of its name, R.D. Engineer Investor Private Limited, in the Register of Companies maintained by the Registrar of Companies, Gujarat, Dadra And Nagar Haveli, Ahmedabad ["ROC" for short].

2. The facts in brief, which necessitated the Appellant to file this Appeal, are as follows;

2.1. It is stated that the ROC vide Public Notice No. ROC/STK/5A dated 25.4.2017 issued in Form No. STK-5 followed by Notice No. ROC/AHMD/248(5)/STK-7/PUB/1 dated 21st 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 Appellant has submitted that the Company has been active since incorporation and has also been maintaining all the requisite documentation as per the provisions of the Companies Act, 2013. The Appellant has admitted that due to default in statutory compliances namely failure to file Financial Statements and Annual Returns for the years ended from 2011 to 2017 the ROC has initiated





the proceedings for striking off the name of the Company. The Appellant has prayed for restoration of the Company for revival.

2.3. The Appellant has filed copies of Audited Balance Sheets from the years 2011 to 2017; copies of Income Tax Returns from Assessment Years 2011-12 to 2017-18; copy of Bank Statement; copy of list of shareholders; details of status of Directors, etc.

3. Upon issuance of notice, the ROC has filed Representation dated 28th March, 2018 through his Deputy Registrar wherein he has denied the allegations and contentions raised in the Appeal, and represented that as the Company has failed to file its statutory returns, viz., Balance Sheets and other Returns since incorporation and therefore action was initiated and its name was struck off.

4. In pursuance of the order issuing notice, the Appellant have filed an Affidavit dated 15th March, 2018 clarifying position of shell Company and unusual transaction during the demonetization period.

5. This Appeal is filed by the Company under Section 252 of the Companies Act through its Director and Shareholder and as such it is entitled to file the same for order of restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company,

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R.D. Engineer Investor Private Limited was struck off on 21st June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 21st 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 Appellant Company, R.D. Engineer Investor Private Limited is that the Company has failed to file its statutory returns since its incorporation.

7. The materials on record also go to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at Haribhakti Colony Extension, J.P. Road, Race Course Circle, Vadodara, Gujarat.

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, R.D. Engineer Investor Private Limited in the Register of Companies maintained by the ROC, Gujarat, Ahmedabad; and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013; and accordingly there shall be directions. The Company's name shall be restored upon the 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;
- (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.

9. The Appeal stands disposed of accordingly.

Signature:


Manorama Kumari,
Member (Judicial)

Signature:


Harihar Prakash Chaturvedi,
Member (Judicial)

Rmr..