

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 366/252/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 11.09.2018**

Name of the Company: Kanwarbirsingh Arora
(Vertex Global Pack 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.	KUNAL P VAISHNAV	ADVOCATE	Appellant	
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2.				
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ORDER

Advocate Mr. Kunal Vaishnav is 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 11th day of September, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 366/252(3)/NCLT/AHM/2018

In the matter of:

M/s. Vertex Global Pack Private Limited

In the matter between:

1. Mr. Kanwarbirsingh Arora
173, Sunrise Park,
Memnagar
Satellite
AHMEDABAD 380 052 : Appellant

Versus

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

Order delivered on ^{11th} September, 2018.

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

Appearance:

Advocate Mr. Kunal Vaishnav is present for the for the appellant.
Advocate Mr. Nachiket Mehta i/b Ms. Maithili Mehta is present for
Respondent/IT department

ORDER

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

1. By this Appeal, the Company namely, M/s. Vertex Global Pack 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: -

Arora

[Signature]

(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. Vertex Global Pack Private Limited was originally incorporated on 23.07.2009 with the Registrar of Companies, Gujarat. It is contended that the Registrar of the Companies vide its Notice No. ROC/AHMD/248(5)/STK-7/1302 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 31st August, 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 any statutory returns viz., Financial Statements and Annual Returns with the ROC since incorporation and due to such lapses the name of the Company stood struck off.

Chhavi

J

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 official and 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 present appellant has filed the present appeal under Section 252(3) of the Companies Act as being a Shareholder/Director of the deregistered company. Hence he is 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. Vertex Global Pack Private Limited was struck off on 21.06.2017 from the Register of Companies followed by a publication in the Gazette of India, while the present appeal is filed on 01st August, 2018. Hence it is filed well within limitation.





6. As per the material available on record, the main reason shown for striking off the name of the Company is that M/s. Vertex Global Pack Private Limited failed to file Annual Returns and Balance Sheets with the Registrar of Companies since incorporation.
7. The Registered Office of the Company is situated at 173, Sunrise Park, Memnagar, Satellite, Ahmedabad 380 052, Gujarat State.
8. The appellant has submitted that the company was incorporated with an object to carry on the business of dealing in all kinds of packing materials etc.
9. The appellant has submitted in the memorandum of appeal that the company is not a shell company and that the company has not made any unusual transaction during the period of demonetization.
10. Representation from Income Tax Department is received stating that appellant has not filed any income tax return since incorporation nor obtained any PAN card. Therefore, appellant is directed to obtain no objection certificate from the Income-tax Department before filing restoration application before the ROC on the basis of order passed by this Tribunal.

Chhava

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. Vertex Global Pack 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;

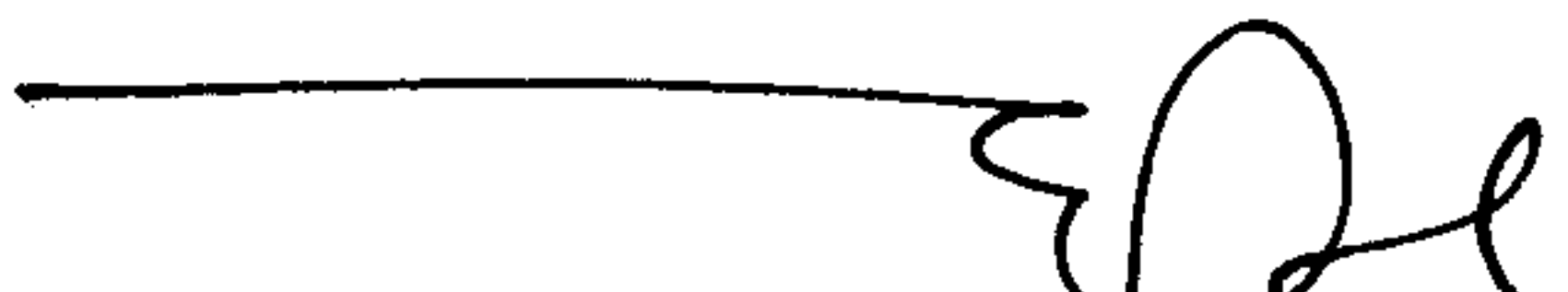
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J

- (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.
- (iv) Before compliance of the statutory requirements of the Registrar of Companies, the appellant shall obtain no objection certificate from the Income Tax Department before filing restoration application before the ROC on the basis of order passed by this Tribunal.

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


Ms. Manorama Kumari,
Member (Judicial)


Harihar Prakash Chaturvedi,
Member (Judicial)