

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 348 /252(1)/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 27.09.2018**

Name of the Company: Nareshbhai Purshottambhai Antala & Anr.
(Siddharth Remedies Pvt. Ltd.)
V/s.
Registrar of Companies, Gujarat.

Section of the Companies Act: Section 252 (1) 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

The case is fixed for pronouncement of order. The Order is pronounced in the open court, vide separate sheet. The Co. Appeal No. 348/2018 is conditionally allowed and stands finally disposed of accordingly.


**HARIHAR PRAKASH CHATURVEDI
(MEMBER JUDICIAL)**

Dated this the 27th day of September, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
GWALIOR BENCH**

Co. Appeal No. 348/252(3)/NCLT/AHM/2018

In the matter of:

M/s. SIDDHARTH REMEDIES PVT. LTD.

In the matter between:

1. Mr. Nareshbhai Parshottambhai Antala
G-2, Dipali Apartment,
Opp. India Colony,
Bapunagar, Ahmedabad-380 026.
2. Mrs. Vanita Naresh Antala
G-2, Dipali Apartment,
Opp. India Colony,
Bapunagar, Ahmedabad-380 026. Appellant

Versus

Registrar of Companies,
ROC Bhavan,
Opp. Rupal Park Society,
B/h. Ankur Bus Stop,
Naranpura, Ahmedabad-380013 Respondent

Order delivered on 27th September, 2018.

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi Member (Judicial)

Appearance:

Advocate Mr. Pankaj Modi is present for the Appellant

1. By the present Appellant beingf Director/shareholder of the Company namely, M/s. Siddharth Remedies Pvt. Ltd., has sought seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Gujarat ["ROC" for short] vide its impugned order dated 21.06.2017 has struck off the name of the company. Being aggrieved with such impugned action the appellants



as being Directors/ Shareholders of the Company has prayed from this Courts for grant of following reliefs: -

- (a) To Direct the Respondent i.e. the Registrar of Companies, Gujarat, Ahmedabad to restore the name of M/s. Siddharth Remedies Pvt. Ltd. on the Register of Companies maintained by the Registrar of Companies, Gujarat, Ahmedabad as if its name had not been struck off from the rolls of the Register;**
- (b) To Direct the Respondent i.e. the Registrar of Companies, Gujarat, Ahmedabad to activate the DIN and DSC of Appellants so as to enable them to submit the Statutory returns of the Company on MCA portal.**

2. The facts in brief, of the present Company Appeal are narrated as under;

i. That the ROC vide its Public Notice No. ROC/AHMD/248(5)/STK-7/1045 dated 21.06.2017 (issued in Form No. STK-7) and followed by a final notice dated 9th March, 2017 (issued under Section 248(5) of the Companies Act, 2013) has struck off Company's the name of the company from its Register of Companies with effect from 21.06.2017 because the Company failed to file its statutory returns from F.Y. 31.03.2012 onwards.

ii. It is submitted that the Company was originally incorporated on 26th September, 1996 with such object to carry on business of manufacturing, processing,



buying, selling, reselling, Importing, exporting, exchanging, distributing, supplying, acting as agents and dealing in all kinds of drugs, medicines, pharmaceuticals, extracts, antibiotics, tranquilisers, intermediates, and reagent of every description and raw materials thereof whether prepared by ayurvedic, homeopathic, unani, allopathic, nature-cum-herbal or any other medicinal system of human, beings, birds, animals, insects etc..

iii. The Appellants also filed an additional affidavit stating that it is not a shell company and nor any unusual transaction took place during the period of demonetisation.

3. The ROC, Gujarat vide his representation dated 25th September, 2018 has denied all the allegation of the appellants made in the present appeal and has justified its impugned action contending that the name of the Company struck off due to this reason that the company has failed to file its statutory returns from the F.Y. 31.03.2012 onwards. The ROC through its representation dated 25.09.2018 has also pointed out about the two Circulars of Ministry of Corporate Affairs (i) General Circular No. 05/2018 dated 17.05.2018 (ii) General Circular No. 16/2017 dated 29.12.2017, which states as under :

“ In the event of defaulting companies whose names have been removed from the Register of Companies under Section 248 of the Act and which have filed applications for revival under Section 252 of the Act upto the date of this scheme, the Director’s DIN shall be re-activated only NCLT order of revival subject to the company having filing all over due documents”

“it is therefore, hereby directed that in such cases the Registrar(s) of Companies shall raise a ticket through Change Request Form (CRF) on MCA21 Portal alongwith copy of NCLT order an E-governance shall activate DIN of the directors of such struck off companies that have been revived through NCLT to file e-CODS, 2018. However, the directors whose DIN’s are proposed to be activated through CRF should not be directors on any other company which has been struck off under Section 248(1) of the Act (other than the one revived through NCLT order as mentioned in CRF). This may be ensured by the ROC before raising CRF with e-governance.

“Further as per direction issued vide para no. 3 of above circular the petitioner has to file the petition before the Hon’ble NCLT, during the validity of CODs Scheme i.e. 01.05.2018 (extended vide G.C. No. 03/2018 dated 27.04.2018) so as to enable this office to take action for activation of DIN. Therefore, as per



the above circular if the application is filed beyond the COPS, the removal of disqualification of Directors will not be consider”

4. Despite proper service Income Tax Department did not file its representation.
5. The Appellants Mr. Nareshbhai Purshottambhai Antala and Mrs. Vanita Naresh Antala have filed. The present appeal is filed (under Section 252(3) of the Companies Act) as being a Directors/Shareholders of the Company. Hence, they are eligible for filing same to seek for restoration of their Company's name. Therefore, the present Appeal is found maintainable. Further, it is evident the name of the Company, M/s. Siddharth Remedies Pvt. Ltd., was struck off on 21.06.2017 from the Register of Companies and got published in the Gazette of India. While the present Appeal is filed on 9th July, 2018, before this Tribunal. Hence the present appeal is found to be filed is well within limitation.
6. A perusal of the material available on record, goes to show the main reason for striking off the name of the Company viz. M/s. Siddharth Remedies Pvt. Ltd., is that it is failed to file its returns with the ROC, Gujarat, since its incorporation. The Appellant Counsel also submitted that company was not a going concern. The Company purchased some land at Village Zak, Taluka Dehgam, Dist. Sub Dist. Ahmedabad (vide document no. 477 Dated 13th June, 1997) but it

could not commence its manufacturing business on account of non availability of approval of appropriate forum/authority in time. Therefore, the Company had to discontinue its entire business activities since 2011-12.

7. As per the material available that the M/s. Siddharth Remedies Pvt. Ltd., (CIN:U24231GJ1996PTC030809) was having its Registered Office 3, Mansuri Chawl, Gulab Tower, Amraiwadi, Ahmedabad-380026, but does not seem to be a going concern. During the course of hearing the learned Counsel for the Appellant has fairly conceded that the Company was not a going concern, since its incorporation and was not doing business for not issuance of Drug manufacturing licence. But the Company having some land and assets.

The Counsel for the Appellant fairly conceded that the Company proposed to dispose of its assets after making statutory compliances and is also contemplating to be closed such submission is noted.


8. Having gone through the contents of the appeal facts of the present appeal and by considering facts and circumstances of the present matter, we feel it just and equitable to restore the name of the Company M/s. Siddharth Remedies Pvt. Ltd., in the Register of the Registrar of Companies maintained by the ROC, Gujarat so as to remove the defects of disqualification, if any, as Director/Shareholders, imposed under Section 164(2) of the Companies Act, 2013 and to enable the company to complete its statutory formalities before close down the company.



10. For the aforesaid the present appeal succeeds and is allowed in terms of its relief clause. Consequently, the ROC, Gujarat is hereby directed to restore the name of the Company in its Register of Companies but on compliance of following conditions by the appellant.

- (i) The Petitioner will file all the overdue statutory returns viz. Financial Statements and Annual Returns 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 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.*
- (iii) The Appellant shall also pay cost for an amount of Rs. 25,000/- (Rupees Twenty five thousand only) payable to the Central Government, Ministry of Corporate Affairs through Office of the ROC, Gwalior 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 the receipt of the order and shall file compliance.*

11. With the above observation the Co. Appeal 348 of 2018 is allowed and disposed of accordingly.


Mr. HARIHAR PRAKASH CHATURVEDI
(MEMBER JUDICIAL)