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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 211/252(3)/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 23.07.2018**

Name of the Company: Nishith Dand  
(Sure Safety Pvt Ltd.)  
V/s.  
Registrar of Companies

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

**S.NO. NAME (CAPITAL LETTERS)      DESIGNATION      REPRESENTATION      SIGNATURE**

1.

2.

**ORDER**

The case is fixed for pronouncement of order. The Order is pronounced in the open court, vide separate sheet. The Co. Appeal is conditionally allowed and stands finally disposed of accordingly.

  
**HARIHAR PRAKASH CHATURVEDI  
MEMBER JUDICIAL**

Dated this the 23<sup>rd</sup> day of July, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 211/252/NCLT/AHM/2018**

**In the matter of:**

**M/s. Sure Safety Private Limited**

**In the matter between:**

1. Mr. Nishith Dand  
Plot No. 42, A/B, Yoginagar Township  
B/s. Zenith TIN, N.H. No. 8  
Chhani  
Vadodara 391 740  
Gujarat : Appellant

**Versus**

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

**Order delivered on 23rd July, 2018.**

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

**Appearance:**

PCA Mr. Hiten Parikh with FCA Mr. Sanjay Majmudar are present for the appellant.

None for the Registrar of Companies.

**ORDER**

1. By this Appeal, the Company namely, M/s. Sure Safety 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. Sure Safety Private Limited was originally incorporated on 02.05.2011 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 its 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 27<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 inception and due to such lapses the name of the Company stood struck off.

4. Notwithstanding the above, the ROC, Ahmedabad in same representation affidavit dated 27<sup>th</sup> April, 2018 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 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. Sure Safety 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 16<sup>th</sup> April, 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, M/s. Sure Safety Private Limited is that it failed to file Annual Returns and Balance Sheets with the Registrar of Companies since its inception.
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 Plot No. 42 A/B, Yoginagar Township, B/s. Zenith TON, N. H. No. 8, Chhani, Vadodara 391 740, Gujarat State.
8. The appellant has submitted that the company was incorporated on 02.05.2011 with an object to carry on in India or elsewhere the business as manufacturers, producers, processors, buyers, sellers, importers, exporters and dealers in every kind and description of food and food stuff, milk and milk products including cream, butter, ghee, cheese, condensed milk, malted milk powders, skimmed milk, ice-cream, milk foods, canned foods and the foods made from any substance and the business of food processing etc.
9. The appellant Mr. Nishith Dand has filed supplementary affidavit dated 08.05.2018 declaring and confirming that the company is not a shell company and it has filed its return of income for AY 2012-13 to 2017-18.

10. Representation of the Income Tax Department dated 08.06.2018 is received stating inter-alia that in the present case the company has filed returns of income for assessment years 2016-1 and 2017-18 by declaring nil income. Further no demand/proceedings are pending in respect of the company.
  
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. Sure Safety 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;
- (iii) The Appellant shall also pay cost for an amount of Rs. 25,000/- payable 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.

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

nair/03/07/2018