

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 251/252(3)/NCLT/AHM/2018

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 19.09.2018**

Name of the Company: Rashmikant Patel
V/s.
ROC, 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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ORDER

None present for the Appellant.

The Order is pronounced in the open court, vide separate sheet


**MANORAMA KUMARI
(MEMBER JUDICIAL)**

Dated this the 19th day of September, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 251/252(3)/NCLT/AHM/2018

In the matter of:

M/s. Vimalsneh Real Estates Private Limited

In the matter between:

Mr. Rashmi Kant Patel.
24 B Buldeers Colony
INDORE 452 003 (M.P.)

:

Appellant

Versus

Registrar of Companies,
IIIrd Floor, 'A' Block,
Sanjay Complex,
Jayendraganj
Gwalior (M.P.)

Respondent

Order delivered on 19th September, 2018

Coram: Hon'ble Ms. Manorama Kumari, Member (J)

Appearance:

Advocate Mr. Kunal P. Vaishnav is present for the appellant.

ORDER

1. By this Appeal, the Company namely, M/s. Vimalsneh Real Estates Private Limited, seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short] by its impugned order dated 02.06.2017 has struck off the name of the Company from the Register of the ROC. Being aggrieved with this action, the appellant being director/shareholder of the company has prayed for the following relief: -

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may graciously be pleased to issue notice to the Respondent and after hearing the parties allow the Company Appeal directing the Registrar of Companies, Gwalior, Madhya Pradesh, Opp. Party to restore the name of Vimalsneh Real Estates Private Limited on the Register of Companies maintained by the Registrar of Companies as if its name had not been struck off from the rolls of the Register.

2. The facts in brief, those are necessary for disposal of the present Appeal are stated as under;
3. It is stated that the ROC vide its Public Notice No. ROC-G/248(5)/2017/2839 dated 02.06.2017 (issued in Form No. STK-7) followed by final notice (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 with effect from 02.06.2017 inter alia on the ground that the Company has not filed annual returns and balance sheet for the financial year 2013-14 to 2016-17 nor it made any application to the ROC within such period for obtaining the status of dormant company under Section 455.
4. It is submitted by the appellant that the Company is incorporated to acquire by purchase, lease, exchange, hire or otherwise and to deal in property of any tenure and to construct, alter, design, furnish, improve, develop, decorate, demolish, erect any building, flat bungalow etc.
5. The appellant has submitted that, the Company is a going concern, having four employees and is doing business. The appellant has further submitted in the Memo of Appeal that the company shall file all outstanding statutory documents along with fee/additional fee as applicable on the date actual filing in the event of revival of the Company and restoration of the name of the Company in the Register maintained by the ROC.

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6. The appellant company was incorporated on 20th June, 2006 with the Registrar of the Companies, Gwalior having its registered office at 24 B-Builders Colony, Indore 452 003 Madhya Pradesh.
7. In the present appeal, representation of ROC, Gwalior dated 27th August, 2018 is received, wherein it is averred that the appeal may be considered on merits subject to filing of balance sheet due for the financial year 2013-14 onwards with additional fees as per the requirement of the Companies Act, 2013/1956.
8. The representation dated 31.08.2018 received from Income Tax Department inter alia states that there is no outstanding demand and no pendency of proceedings, appeals, prosecution, penalty pending against the appellant company.
9. The Appellant has filed the present appeal under Section 252(3) of the Companies Act as being director of the Company and he is entitled to file the same seeking for restoration of the name of the Company. Therefore, the present Appeal is found maintainable. Further the name of the Company, M/s. Vimalsneh Real Estates Private Limited, was struck off on 02.06.2017 from the Register of Companies and the same was got published in the Gazette of India. While the present Appeal is filed on 28th May, 2018, hence the Appeal is filed well within limitation.

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10. On perusal of the material available on record, the main reason shown for striking off the name of the Company is that the Company failed to file its Annual Returns and Balance Sheets with the Registrar of Companies in time.
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. Vimalsneh Real Estates Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh.
12. In view of the above, the instant Appeal is allowed and the Registrar of Companies, Gwalior, Madhya Pradesh is directed to restore the name of the Company in the Register of Companies upon 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; 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, Gwalior.
 - (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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- (iii) The Appellant is further directed to pay an amount of Rs. 25,000/- to the Central Government, Ministry of Corporate Affairs through the Office of the ROC 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 receipt of an authentic copy of this order and shall file compliance.

13. The Appeal stands disposed of accordingly.



Ms. Manorama Kumari
Member (Judicial)

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