

**ATTENDANCE-CUM-ORDER SHEET OF HEARING**

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH**

C.P.No.10/252/GB/2017

P.K.D. Securities Ltd.

... Applicant

- versus -

Registrar of Companies, Shillong

... Respondent

**Present :** Hon'ble Mr. Justice P K Saikia, Member(J)

**Date of Order: 19<sup>th</sup> May 2017**

Name of the Company	P.K.D. Securities Ltd.
Under Section	252

Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date
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**ORDER**

Mr H.S. Kumbhat, Chartered Accountant, is present before this Tribunal representing the petitioner company.

2. In terms of the order passed by this Tribunal on 19.04.2017, the Registrar of Companies (ROC) has filed a report objecting the restoration of the petitioner company. The grounds of objection have been given in full detail in the report. In that connection, I have also heard Mr H.S. Kumbhat who submits that the petition has been filed strictly in accordance with the law and, therefore, objections raised from the side of ROC, are required to be rejected.

3. However, during the course of arguments, the ROC has pointed out some serious infirmities in the petition. Such infirmities are: -

- (i) The Board resolution, adopted for revival of the petitioner company, was defective since it was not passed in accordance with the prescription of Section 12 sub-clause 1 & 3 (c).



(ii) (a) There was no proof of service of notice on the Directors of the company,

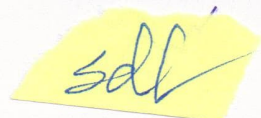
(ii) (b) There was no proof of attendance of Directors in the meeting of a Board aforesaid which puts a question mark on the genuineness of the resolution adopted seeking restoration of company.

4. The ROC further submits that the petitioner is not an aggrieved party as contemplated in Section 252 (3) of the Companies Act of 2013 since the petitioner itself made an application seeking striking off its name from the Register of Companies way back in 15.03.2004. Since the company is not an aggrieved party, it has no locus to file an application under Section 252 (3) of the Act of 2013 seeking restoration of its name in the Register of Companies.

5. The ROC, referring to the decision of the Hon'ble Delhi High Court in *Intec Corporation Pvt. Ltd. Vs. RoC N.C.T. of Delhi* (relied upon by the petitioner) submits that though Delhi High Court, on similar facts and circumstances, allowed the company to be restored but such restoration was made subject to payment of all statutory dues and fees. Therefore, in the event, this Tribunal deems it necessary to allow the restoration of the petitioner company, in that case, the petitioner company needs to be directed to pay the additional fees to be calculated in accordance with the prescription of law.

6. Mr H.S. Kumbhat, however, submits that the meeting of the Board of Directors was conducted in accordance with prescription of law and the company has been in possession of all those documents but it needs some time to submit those documents before this Tribunal.

7. In view of the above, the matter is listed on 05.07.2017 for further hearing. However, on the date fixed, the petitioner is directed to submit all the documents referred to above.



(Member (Judicial))  
National Company Law Tribunal,  
Guwahati Bench,  
Guwahati.

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