

ATTENDANCE-CUM-ORDER SHEET OF HEARING

NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH

CP No. 11/252/GB/2017

North East Synthetics (P) Ltd

- Petitioner

-Versus-

The Registrar Companies, Shillong

- Respondent

**PRESENT**

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

**Date of Order : 04.04.2017**

Name of the Company	
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**

1. This petition under Section 252 of the Companies Act, 2013 has been filed seeking the following :

- a) *To allow this petition and pass an order thereby directing the respondent for restoration of its name in the Register of the respondent, as if name of the company had not been struck off, in accordance with section 252(3) of the companies Act, 2013.*
- b) *Since the name of the company was struck off by the respondent, the respondent be further directed not to initiate with penal action against the petitioner for default in filing of its annual returns under section 92 of the Companies Act 2013 (Section 162 of the Companies Act, 1956) and for default in filing the audited financial statements under*



*Section 137 of the Companies Act 2013 (Section 220 of the Companies Act, 1956) or under any other provisions of the Act.*

- c) The Hon'ble Tribunal may pass such further orders as it deem fit in the circumstances of the matter.*
- d) That the petitioner declares that the interest of none of the creditor/shareholder or any person at large is prejudiced if the name of the Company restored in the register of Companies, maintained by the Registrar of Companies. Further, no one will be prejudiced if the name of the Company is restored.*
- e) Unless an order as prayed for is made, the Company will suffer irreparable loss and prejudice.*
  - i. The petition has been made bona fide and is in the interest of justice.*
  - ii. The petitioner further craves leave to submit further documents and make further submissions (oral) and written) as and when required*

2. The petitioner company, limited by shares, was incorporated with the Registrar of Companies, Shillong (hereinafter referred to as Company ) on 6<sup>th</sup> January, 2005 vide Incorporation Certificate No. 13-07616 of 2004-2005. After the securing of the Incorporation Certificate, the company started doing such business as mentioned in the Memorandum of Association as well as in the Article of Association. The petitioner company states that it has been active all along since the date of incorporation.

3. It has been alleged that very recently, the ROC, Shillong, without following the prescription of law laid, down under Section 560 of the Companies Act, 1956 (in short, Act of 1956), struck off the name of the company from the Registrar of Companies. In that connection, it has been submitted that Section 560 of the Act of 1956 requires that before striking off the name of any company, it is mandatory on the part of ROC to make a pre-decisional enquiry even when the annual return and audited balance sheet of the Company are not filed with the authority concerned by the company in time.

4. Unfortunately, all those provisions were given a go by the concerned authority, same being the ROC, Shillong, when it took the decision to strike off the name of the company from the Registrar of Companies. It has been stated that the petitioner came to know about the striking off of the name of the company only in 2016 when the petitioner visited the portal of Ministry of Company Affairs (in short, MCA). In view of above, the petitioner has approached this Tribunal by way present petition seeking the reliefs aforementioned.

5. I have heard Mr. Narayan Sharma, Practising Company Secretary, appearing for the petitioner having regard to the averments made in the petition and find it necessary to direct



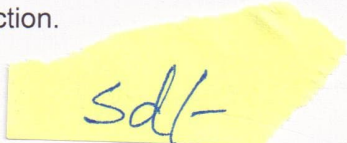
the petitioner to serve notice of this proceeding on the ROC requiring him to reply to the allegations made in the petition.

6. List this matter on 28.04.2017.

7. The petitioner is directed to take steps in the matter of service of notice to the ROC, North Eastern Region, Shillong within a period of two days from today. Needless to say that such notice must accompany copy of the petition and all other connected documents.

8. It is made clear that the question of maintainability of this proceedings on the point of limitation shall remain open.

9. Registry is directed to furnish a copy of this order to the ROC, North Eastern Region, Shillong immediately for information and necessary action.



sd/-

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

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