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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 18/252/NCLT/AHM/2017


Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 03.11.2017**

Name of the Company: Bharat Babulal Patel & Ors.
V/s.
Registrar of Companies, Gujarat.

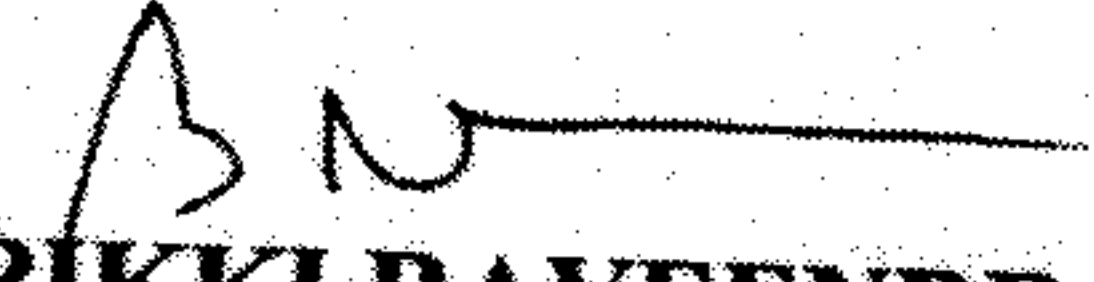
Section of the Companies Act: Section 252 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	PARAG PRAJAPATI	GA	APPLICANT	
2.				

ORDER

Learned ACA Mr. Parag Prajapati present for Appellant. None present for ROC, Gujarat.

Order pronounced in open court. Vide separate sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 3rd day of November, 2017.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 18/252/NCLT/AHM/2017

In the matter of:

Adept Renewable Energy Private Ltd.

In the matter between:

1. Bharat babulal Patel
11, Mani Pushpa Society,
Off: Drive-in-Road,
Ahmedabad-380054
 2. Hemal Bharat Patel
11, Mani Pushpa Society,
Off: Drive-in-Road,
Ahmedabad-380054
 3. Pitamber Haribhai Patel
11, Mani Pushpa Society,
Off: Drive-in-Road,
Ahmedabad-380054
- : Appellants.

Versus

The Registrar of Companies,
ROC Bhavan,
Opp: Rupal Park,
Naranpura,
Ahmedabad-380013

: Respondent.

Order delivered on 3rd November, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).

Appearance:

Mr. Parag Prajapati, learned ACA for the Appellants.
None present for Registrar of Companies [Reply filed].

ORDER

1. This Appeal is filed under Section 252 (3) of the Companies Act, 2013 by the Appellants No. 1 and 2 who are shareholders-cum-Ex-Directors, and Appellant No.3 who is Ex-Director of Adept Renewable Energy Private Ltd., seeking restoration of name of Adept Renewable Energy Private Ltd., in the Register of Companies maintained by the Registrar of Companies, Gujarat, ('ROC').

2. The facts in brief, that are necessary for the disposal of this Appeal, are as follows;
 - 2.1. It is stated by the Appellants that ROC, Gujarat arbitrarily struck off the name of Adept Renewable Energy Private Ltd., from the Register of Companies under sub-section (5) of Section 248 of the Companies Act, 2013 on 21.6.2017. It is stated that Adept Renewable Energy Private Ltd, is having Paid-up Capital of Rs. 2,50,000/- divided into 25000 equity shares of Rs. 10/- each. The Registered Office of the Company is situated in Drive-in-Road, Ahmedabad. The Company filed annual Balance Sheets upto March, 2015 which is reflected in the website of Ministry of Corporate Affairs. The Company filed its Annual Return for the year 2014-2015 on 26.6.2017 for which Annual General Meeting was held on 30.9.2015. The said Annual Filing for the year 2014-15 was approved by the Ministry of Corporate Affairs as on 26.6.2017. It is further stated that the Company is in operation and carrying on business. The Appellants have invested hard earned money and valuable time in the affairs of the Company. ROC issued Notice in Form STK-7 on 21.6.2017 and STK-5 on 25.4.2017.

3. On this Appeal, notice was given to the ROC. ROC filed Reply. It is stated in the representation that since the Company failed to file its statutory returns in time, the ROC initiated action under

Section 248(1) of the Companies Act, 2013. It is further stated that the Company had not filed any statutory returns with the office in time inspite of issuing notices. ROC in his representation further stated that he has no objection if the name of the Company is restored by this Tribunal subject to the following conditions;

- 1) 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 Companies Act, 2013.
 - 2) The publication of notice in two leading newspapers circulating in the district and 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.
4. Section 252(3) of the Companies Act, 2013 enables a Company or any Member or Creditor or workman, who feels aggrieved by an order striking off the Company from the Register of Companies, can file an Application within 20 years from the publication in the Official Gazette of the notice under sub-section (5) of Section 248 of the Act. Moreover, Section 252(1) of the Companies Act enables any aggrieved person to seek restoration of the name of the Company within three years. In the case on hand, the Company was struck off on 21.6.2017. This Appeal was filed on 4th August, 2017. Therefore, this Appeal is within time. The Appellants No. 1 and 2 are the shareholders in Adept Renewable Energy Private Ltd. Therefore, this Appeal is maintainable.
5. The only reason on which the name of the Company was struck off from the Register of Companies is non-filing of statutory returns for the year 2014-15 within time. As can be seen from the material placed on record, the Company filed its Annual Return for the year 2014-15 on 26.6.2017 with penalty and the same was

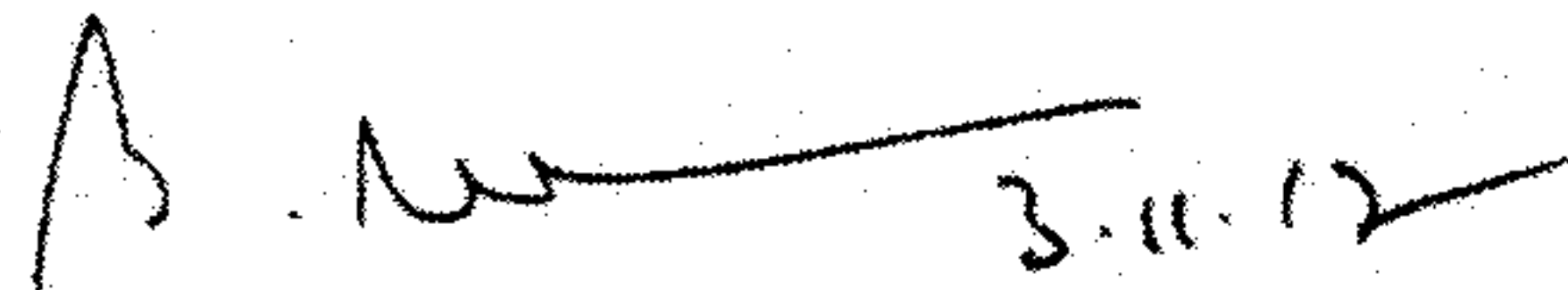
accepted by the Ministry of Corporate Affairs. Moreover, the Appellants stated that the Company is an ongoing Company and doing business.

6. Considering all the above said facts, this Tribunal is of the considered view that the name of Adept Renewable Energy Private Ltd., shall be restored to the Register of Companies maintained by the Registrar of Companies, Gujarat, upon the Appellants 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;
- (ii) The Appellants 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 Appellants shall also pay an amount of Rs. 10,000/- to the Ministry of Corporate Affairs 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.

7. The Appeal stands disposed of accordingly.

Signature:



Sri Bikki Raveendra Babu, Member (J).