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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**


Co. Appeal No. 31/252/NCLT/AHM/2017

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 08.12.2017**

Name of the Company: Kuldeep Shastri
V/s.
ROC, 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.	CS Pinky Srivastava	PCS	Kuldeep Shastri	
2.				

ORDER

Learned PCS Ms. Pinky Srivastava i/b learned FCA Mr. Satyam Srivastava present for Appellant. None present for ROC.

Order pronounced in open Court. Vide separate sheets.



**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 8th day of December, 2017.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 31/252/NCLT/AHM/2017

In the matter of:

Mr. Kuldeep Shastri,
Shareholder of
Earth Connect Transway
Private Limited,
Resident of 1, Nagarkot,
Mata Mandir, Fazalpura,
Ujjain, M.P.

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh at Gwalior,
3rd Floor, 'A' Block,
Sanjay Complex, Jayendra Ganj,
Gwalior (M.P.)-474 009

: Respondent.

Order delivered on 8th December, 2017.

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

Appearance:

Ms. Pinky Srivastava, learned PCS on behalf of Mr. Satyam
Srivastava, learned FCA present for the Appellant.
None present for the ROC.

ORDER

1. This Appeal is filed by the Shareholder of M/s. Earth
Connect Transway Private Limited, seeking restoration of the name
of the Company in the Register of Companies maintained by the
Registrar of Companies, Gwalior, Madhya Pradesh ['ROC' for short].

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2. It is stated in the Appeal that the Company, M/s. Earth Connect Transway Private Limited, was incorporated on 1st February, 2013 as a Private Limited Company by Shares having CIN No. U63090MP2013PTC029982, and its Registered Office is situated at 3/5, Dhobi Gali Nikas Chouraha, Ujjain, Madhya Pradesh-456001. and has been carrying on business activity since its incorporation. According to the Appellant, the Company could not file the Balance Sheets and Annual Returns for the years 2013-14, 2014-15 and 2015-16 due to technical problems of digital signatures validation etc., which was duly approved by the Board of Directors audited by the Auditors and adopted by the Members. It is further the case of the Appellant that the Company is closely held private limited company having two shareholders holding entire share capital mainly by the Directors and their relatives.

3. The Appellant has stated that the Respondent ROC vide Notice in the Form STK-7 dated 14th June, 2017 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, maintained by the ROC, Gwalior, Madhya Pradesh, with effect from 26th May, 2017. The said facts came to the knowledge of the Appellant when the Company tried to file the statutory returns and other documents at the portal of the MCA, wherein it is reflected that the Company's status was changed to Strike Off; no notice of striking off the name of the Company was served upon the Company; the Appellant being the shareholder is required to protect his interest in the Company and to protect the interest of creditors and various Government Departments associated with the business of the Company and hence decided to make this Appeal before the Hon'ble National Company Law Tribunal.

3.1. The Appellant further submitted that the Bank account is also frozen and Directors were disqualified due to the striking off of the name of the Company causing great hamper to the Company as it is a running Company and may incur loss if it is not revived.



4. The ROC filed Reply dated 26.10.2017 along with Affidavit before this Tribunal, stating that the name of the Company was struck off on suo motu basis on 24.6.2017 due to non-filing of Annual Return and Balance Sheet for the financial years 2013-14 to 2015-16. The ROC has also stated that the Company has not furnished information with the office of ROC, such as details of unsecured loans along with Trade Payables and other current liabilities against EPF, ESIC, Insurance and TDS as per the Balance Sheet as on 31st March, 2016.

5. The Appellant Company filed copies of Audited Balance Sheets for the years 2013-14, 2014-15 and 2015-16 and other documents along with the Appeal.

6. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Shareholder of the Company is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The name of the Company, M/s. Earth Connect Transway Private Limited, was struck off with effect from 26th May, 2017 from the Register of Companies. This Appeal was filed on 15th September, 2017. Therefore, this Appeal is within time.

7. From the material available on record, the reasons for striking off the name of the Appellant Company, M/s. Earth Connect Transway Private Limited, are that it failed to file statutory Annual Return and Balance Sheet for the financial years 2013-14 to 2015-16; and has not furnished information relating to unsecured loans along with Trade Payables and other current liabilities against EPF, ESIC, Insurance and TDS as per the Balance Sheet as on 31st March, 2016.

8. The material on record also goes to show that the Company is an ongoing concern and has been doing business.

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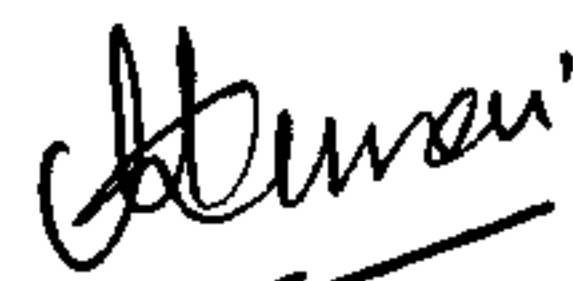
9. . Considering all the aforesaid aspects, this Tribunal is of the considered view that it is just and equitable to restore the name of the Company, M/s. Earth Connect Transway Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, by removing disqualification, if any, imposed upon the Directors, and unfreeze the accounts, if any, maintained by the Company with the bankers, and accordingly there shall be directions. The Company's name shall be restored upon the Appellant 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 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 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.

11. The Appeal stands disposed of accordingly.

Signature: 

Ms. Manorama Kumari, Member (J).

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