T.P. NO. 142/167/NCLT/AHM/2016 C.A. NO. 155/167/CLB/MB/2016

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD BENCH, AHMEDABAD T.P. NO. 142/167/NCLT/AHM/2016 C.A. NO. 155/167/CLB/MB/2016

CORAM:		IRI M. K. SHRAWAT MBER (JUDICIAL)	
In the matter of Companies Act, the Companies Act, 2013.	1956 (1	of 195	56), Section 167 c
Shri Suresh K. Patel 34-A, Shreenagar Society Akota, Vadodara 390 020.			Applicant
V/s			
Bicycle Manufacturing Industries Pvt. Ltd. LalitKunj, Raj Mahal Road Opp. Khandorao Market Vadodara,			Respondent

PRESENT ON BEHALF OF THE PARTIES:

FOR THE APPLICANT

None present from the Applicant's side

FOR THE RESPONDENT

None present from the Respondent's side.

ORDER

Reserved on : 08.12.2016 Pronounced on : 20.01.2017

1. The Petition under consideration was filed by the Applicant way back on 24th January, 2014 before the then Company Law

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Board (CLB), Western Region Bench, Mumbai. Thereafter, on creation of National Company Law Tribunal (NCLT), the Application was transferred to NCLT, Ahmedabad Bench. It is worth to mention, at the outset itself, that there is no evidence on record of service of Application to the Respondent. The Applicant has not taken care to complete the requisite formalities prescribed under the Companies Act, 1956 (hereinafter referred to as "the Act"). The Applicant also remained absent throughout. The records of the case have demonstrated that number of Notices were issued, but neither the Applicant nor any of his representative attended the proceedings. Under these circumstances, this Bench is left with no other option but to proceed ex-parte *qua* the Applicant and does not consider it justifiable to keep pending this very old Application anymore.

- 2. On perusal of the Application, it is noticed that the grievances raised are of such nature, for example, seeking direction to hold AGM for approval of annual accounts or direction to fill up the vacancy created due to death of one of the Directors, could have been redressed/ resolved/ redundant by now due to lapse of so many years. Thus a *bona fide* presumption can be drawn that the grievances of the Applicant as raised in the Application might have been remedied or due to lapse of so many years might have become outmoded. The Applicant, therefore, appeared to be not interested in pursuing this Application.
- 3. A trite law is that, "equity aids the vigilant, not those who slumber on their rights". The Applicant, in this case, has

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abysmally failed to represent this Application although number of opportunities were granted. Otherwise also, after filing this Application in the year 2014 he has not taken any care to pursue the matter and remained least bothered to enquire the fate of the impugned Application. This Bench is also aware that presently the Courts are heavily burdened by such type of frivolous Suits or Proceedings, hence required to be disposed of as per law expeditiously. As a result, this Application is **dismissed for want of prosecution.** No Order as to costs. Directed to be consigned to Record Room.

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Dated: 20.01.2017

M.K. Shrawat Member (Judicial)