

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

CA No. 244/252/HDB/2017

U/s 252 of the Companies Act, 2013  
R/w NCLT Rules, 2016 and  
R/w Rule-87A of NCLT (Amendment) Rules, 2017

**In the matter of:**

1. Mr. Minto Purshotam Gupta,  
S/o. Mr. Mohanlal Gupta,  
R/o. 2B, Sunshine Crescent,  
Road No.4, Banjara Hills,  
Hyderabad-500034,  
Telangana.
2. Mrs. Meenakshi Gupta,  
D/o. Mr. Veera Bahadur Pathak,  
R/o. 2B, Sunshine Crescent,  
Road No.4, Banjara Hills,  
Hyderabad-500034,  
Telangana.

... Appellants

**Versus**

1. Mintokashi Associates & Investments Pvt. Ltd,  
Having its registered office at  
28, Sunshine Crescent Road No.4,  
Banjara Hills, Hyderabad-500034.
2. The Registrar of Companies, Hyderabad  
For Andhra Pradesh & Telangana,  
Corporate Bhawan, 2<sup>nd</sup> Floor,  
GSI Post, Thatti Annaram,  
Bandlaguda, Hyderabad-500068,  
Telangana.

... Respondents

**Order Pronounced on: 08.12.2017**



**CORAM:**

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

**Parties/Counsels Present:**

For the Appellant : Mr. V. Venkata Rami Reddy, Advocate  
For the Respondent : None

**Per: Ravikumar Duraisamy, Member (Technical)**

**ORDER**



1. The Company Application bearing CA No. 244/252/HDB/2017 is filed by Mr. Minto Purshotam Gupta and Mrs. Meenakshi Gupta, Under Section 252(3) of Companies Act, 2013 R/w NCLT Rule 2016 and R/w Rule 87A of the National Company Law Tribunal (Amendment) Rules, 2017, by inter-alia seeking the following reliefs:

- a) To set aside the order of the 2<sup>nd</sup> Respondent with regard to striking off the name of the company from the register of companies.
- b) To pass an order for restoration of the name of the 1<sup>st</sup> Respondent Company in the Register of Companies maintained by the Registrar of Companies, Andhra Pradesh and Telangana.
- c) Direct the Registrar of Companies to place the 1<sup>st</sup> Respondent Company and all other persons in the 1<sup>st</sup> Respondent Company such as Shareholders, Employees and all other related to the Company are in the same position as nearly as may be as if the name of the Company had not been struck off from the Register of Companies.



- d) Order that 1<sup>st</sup> Respondent Company shall deliver a certified copy of the order of this Tribunal to the Registrar of Companies (RoC) within 30 days from the date of the order in physical form.
- e) Order that upon delivery of the physical form of the certified copy of the order of this tribunal, the Registrar of Companies (RoC) enables the 1<sup>st</sup> Respondent Company to deliver the order through electronic mode in the form of an attachment to INC-28 or with any other relevant form as prescribed by Ministry of Corporate Affairs.
- f) Order upon such delivery, the RoC do, in his Official Name and Seal, publish the order in the Official Gazette enabling the 1<sup>st</sup> Respondent Company to be in the Register of Companies maintained by the RoC.
- g) Allow the 1<sup>st</sup> Respondent company to file pending Financial Statements and Annual Returns with RoC in his portal, to file such documents under e-filing with requisite fee and additional fee as prescribed under Section 403 of the Companies Act, 2013 read with Rule 12 of Companies (Registration Offices and Fees) Rules, 2014, or on or before a date prescribed by the Hon'ble Tribunal.
- h) Order that upon delivery of the certified copy of the order of this Hon'ble Tribunal, the Respondent issue a letter/ Certificate in his official name and seal addressed to the RBI that the Company's name has been restored in the register of companies and the Bankers shall defreeze the Bank Accounts of the Company.
- i) Order that the 2<sup>nd</sup> Respondent to allow the promoters of the Company to file an application in physical form with regard to appointment of Directors under Section 167 (2) in place of



Directors who were disqualified under section 164 (2), and to have the role check to enable the DINs of Directors to be activated as soon as the name of the company is restored in the register.

**Brief facts of the case:**

2. M/s. Mintokashi Associates and Investments Pvt. Ltd (1<sup>st</sup> Respondent Company) (hereinafter referred to as the Appellant Company) was incorporated on 04.11.1997 with RoC Hyderabad. The Authorized Share Capital of the Company is Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) divided into 2,50,000 (Two Lakhs Fifty Thousand) Equity Shares of Rs. 10/- (Rupees Ten) each. The Issued, Subscribed and Paid-up Share Capital of the Company is Rs.1,00,000/- (Rupees One Lakh Only) divided into 10,000 (Ten Thousand) Equity Shares of Rs. 10/- (Rupees Ten) each.
3. The main objects for which the company was incorporated, as given in the Memorandum of Association are as under:

To carry on the business of an Investment Company in all its branches and without prejudice to the generality of the foregoing to buy, underwrite, invest in and acquire hold, sell and deal in shares, stocks, debenture, debenture-stock, bonds, obligations and securities issued or guaranteed by any Government, state, Dominions, Sovereign, Rules Commissioner, Public body or authority etc.

4. RoC has struck off the name of the 1<sup>st</sup> Respondent Company which has been displayed in the master data maintained by the Ministry of Corporate Affairs. Prior to Strike off the name of the Company, RoC has issued the following notices in the manner described there under:
  - i. The Applicants and the 1<sup>st</sup> Respondent Company has not received notice in the Form STK -1 Pursuant to sub section (1) and (2) of Section 248 of the Companies Act, 2013.



- ii. RoC has displayed a Notice in Form STK- 5 in the portal maintained by the Ministry of Corporate Affairs Vide No. ROC/Hyderabad/STK-1/Revised dated 05.05.2017.
- iii. RoC has displayed another Notice in Form STK- 7 in the portal maintained by the Ministry of Corporate Affairs vide No. ROC(H)/248(5)/STK-7/2017 dated 21.07.2017.
5. The Directors of the Company have consulted the legal experts and on the opinion it was thought that the Annual Returns and Financial Statements for the year 2012-13, 2013-14, 2014-15 and 2015-16 can be filed with the Registrar of Companies with additional fee as contemplated under section 92 and 137 r/w section 403 of the Companies Act, 2013 during the month of September, 2017 prior to conducting the forth coming Annual General Meeting. Other than the said reason, there was no intentional delay on part of the Company and its Directors in Complying with the provisions of the Companies Act, 2013.
6. The Applicants being the Promoter shareholders and Directors understood the said fact of striking off from the register while trying to file the said returns during the second week of September, 2017.
7. The Company has to file the annual returns for the Financial Years 2012-13, 2013-14, 2014-15 and 2015-16. The Company is having assets and liabilities and is filing the Income Tax Returns regularly.
8. On 08.12.2017, the Ld. Counsel for the Appellant Shri V. Venkata Rami Reddy has filed a Memo for Withdrawal of Company Application stating that:

“Pursuant to the instructions and an Affidavit dated 08.12.2017 received from the Applicant, Mr. Minto Purshotam Gupta, this memo is filed with regard to the withdrawal of the Company Application filed before Hon’ble NCLT, Hyderabad Bench on 08.12.2017”





9. In view of the aforesaid memo filed by the Appellant/Counsel are permitted to withdraw the Company Application bearing CA No. 244/252/HDB/2017, with a liberty to the Appellant to file a fresh Company Application in accordance with law after complying with all the provisions of the Companies Act, 2013.
10. No orders as to cost.

*Sd/-*  
**RAVIKUMAR DURASAMY**  
MEMBER (TECHNICAL)

*Sd/-*  
**RAJESWARA RAO VITTANALA**  
MEMBER (JUDICIAL)

*P. Kalade*  
**Dy. Regr./Asst. Regr/Court Officer/**  
**National Company Law Tribunal, Hyderabad Bench**

प्रमाणित प्रति  
**CERTIFIED TRUE COPY**

केस संख्या  
CASE NUMBER *CA NO. 244/252/HDB/2017*  
निर्णय का तारीख  
DATE OF JUDGEMENT *8-12-2017*  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON *10-1-2018*