



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

Company Appeal (C/Act)/12/KOB/2026

(Under Section 252 (3) of the Companies Act, 2013)

Date of Institution: 24.06.2026

Order delivered on: 28.07.2026

In the matter of:

M/s. Silvernest Habitat Private Limited

MEMO OF PARTIES:

Mr. Thahakoya Muhammad Ismail Kunju

Residing at Thundiyl House, Mannar P O.,

Kattissery, Alappuzha – 689 622,

Shareholder of M/s. Silvernest Habitat Private
Limited

... Appellant

-Vs-

**Registrar of Companies, Kerala &
Lakshadweep,**

Corporate Law Bhavan,

BMC Road, Thrikkakkara P.O., Kakkanad,

Kochi, Kerala-682 021.

Email:roc.ernakulam@mca.gov.in

... Respondent

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL

HON'BLE MEMBER (TECHNICAL): SHRI RAVICHANDRAN RAMASAMY

Appearances:

For the Appellant

: Mr. Georgekutty Kurian, PCS

For the Respondent/ROC

: Representative of ROC



ORDER

PER CORAM

1. The present Company Appeal has been filed by Mr. Thahakoya Ismail Kunju, one of the shareholders, holding 10,000 equity shares of Rs. 10/- each, representing 50% of the paid-up share capital of **M/s. Silver Nest Habitat Private Limited** ("the Appellant Company"), under Section 252(3) of the Companies Act, 2013, seeking the following reliefs:

"i) it is therefore prayed that directions may please be given, in the facts and circumstances stated above, it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to issue notice to the Opp. Party and after hearing the parties allow the Appeal directing the Registrar of Companies, Kerala and Lakshadweep, Kochi., Opp. Party to restore the name of the Company in the Register maintained by the Registrar of Companies as if its name had not been struck off from the Register of Companies.

ii) It is prayed that taking in to consideration of the financial position of the company, the penalty may please be waived off.

iii) It is also prayed that in order to avail the concessional benefits as per the Companies Compliance Facilitation Scheme 2026, order may please be issued sufficiently in advance to file all the pending forms before the last date of the scheme ie. 15th July 2026.

iv) And pass such other order/ orders direction/ directions as may deem just and proper in terms of Section 252 (3) of the Companies Act, 2013."

2. Brief facts of the case and submissions made by the Appellant:

- i. M/s. Silver Nest Habitat Private Limited was incorporated on 30.04.2007 under the provisions of the Companies Act, 1956, bearing Corporate Identification Number (CIN) U45201KL2007PTC020715 as a Company Limited by shares with the Registrar of Companies, Kerala and Lakshadweep, having its Registered office situated at Door No.24, 2nd Floor, Penta Tower, Kaloor, Kochi 682 017, to undertake the following business:



“to engage in the business of design and construction of residential flats and villas and to undertake allied activities like architectural, interior design work, landscaping and do property development”

- ii. The authorised share capital of the Company is Rs.5,00,000/- (Rupees Five Lakh Only) divided into 50,000 equity shares of Rs.10/- (Rupees Ten each). The issued, subscribed, and paid-up capital of the Appellant Company is Rs.2,00,000/- (Rupees Two lakh only) divided into 20,000 equity shares of Rs.10/- (Rupees Ten each).
- iii. The Company was incorporated with 3 subscribers, and they were the first directors of the Company. They are Mr. Thahakoya Muhammad Ismail Kunju, Mrs. Laila Ismail Kunju and Mr. Anas Ismail Kunju.
- iv. The Appellant submitted that the Respondent/Registrar of Companies, Kerala and Lakshadweep, initiated proceedings under Section 248(1) of the Companies Act, 2013, to strike off the company's name from the Register because the company failed to file its Financial Statements and Annual Returns for the financial years 2011-12 to 2016-17.
- v. Upon receiving the notice issued by the Registrar of Companies under Section 248(1) of the Companies Act, 2013, dated 05.04.2017, the company entrusted a practising Company Secretary with the responsibility of filing the pending statutory returns and ensuring compliance. However, the Company Secretary failed to take the necessary action. As a result, the company did not respond to the notice, and the Registrar of Companies, Kerala and Lakshadweep,



struck off the company's name under Section 248(5) of the Companies Act, 2013, through a notice dated 17.09.2018.

- vi. The Appellant submitted that the company was operational and carrying on business on a small scale at the time its name was struck off. The company had acquired land for the construction of flats and villas and was awaiting the necessary government approvals. The non-filing of financial statements and annual returns was due to the absence of employees and the failure of the person entrusted with preparing and filing the statutory returns to discharge his responsibilities. The company now intends to revive its operations and regularise all pending statutory compliances.
- vii. The Appellant further submitted that the accounts of the company had been finalized and that the company had engaged the services of a Company Secretary to complete the remaining formalities, including the filing of returns with the office of the Registrar of Companies. However, the same was not carried out. It is further submitted that the company became aware of this non-compliance only upon receiving the strike-off notice from the Respondent/Registrar of Companies.
- viii. The Appellant submitted that the present Appeal deserves to be allowed, as the Company is actively pursuing the necessary approvals for establishing a resort on the land acquired for the said purpose. The Appellant undertakes to file all pending statutory documents, including the financial statements and annual returns for the financial years 2011-12 to 2024-25, along with the applicable filing fees, additional fees, and a certified copy of the Tribunal's order upon



restoration of the Company's name. Unless the Appeal is allowed and the Company's name is restored to the Register of Companies, the Appellant and its shareholders will suffer irreparable loss and serious prejudice.

- ix. The Appellant submitted that all pending annual accounts and returns have been prepared, but could not be filed because the company's name was struck off. The company is willing to provide any additional records or transaction details required by the Tribunal. It further stated that there were no material business transactions in recent years and that Income Tax Returns could not be filed due to the non-availability of audited financial statements. However, the company has no outstanding income tax liability
3. The Appeal has been filed within the limitation period prescribed under Section 252(3) of the Companies Act, 2013, as the company was struck off on 17.09.2018, and the appeal was made within the permissible 20-year period.
4. In compliance with the Order dated 08.07.2026, the learned counsel for the Appellant filed a memo dated 10.07.2026, along with undertakings from the shareholders, Mrs. Laila Ismail Kunju, who holds 5,000 equity shares of Rs.10/- each, representing 25% of the paid-up share capital of the Company, and Mr. Anas Ismail Kunju, who holds 5,000 equity shares of Rs.10/- each, representing 25% of the paid-up share capital of the Company, expressing their consent to the restoration of the Company's name to the Register maintained by the Registrar of Companies, Kerala.
5. The Appellant also filed an affidavit and undertaking affirming that the Company had acquired land for the development of an apartment project and was awaiting the necessary approvals from the Government authorities. The Appellant further



undertook to file all overdue statutory returns along with the applicable filing fees and additional fees, and affirmed that the Company had not been involved in any tainted or unlawful financial transactions.

6. The Respondent/ROC filed a Report dated 10.07.2026 and submitted as follows:
 - a. M/s Silvernest Habitat Private Limited (CIN: U45201KL2007PTC020715) was incorporated on 30.04.2007 with the Registrar of Companies, Kerala. The company had an authorised share capital of Rs.5,00,000/- and a paid-up share capital of Rs.2,00,000/-. The Appellant was one of the three shareholders, holding 10,000 equity shares.
 - b. The company last filed its financial statements and annual return for the financial year ended 31.03.2011. It did not carry on business for two consecutive financial years, failed to file statutory returns from FY 2011-12 onwards, and did not apply for dormant status under Section 455 of the Companies Act, 2013.
 - c. Accordingly, the Registrar issued a notice in Form STK-1 on 17.05.2018, followed by a public notice in Form STK-5 on 19.06.2018. As no objections were received, the company's name was struck off the Register of Companies on 17.09.2018 under Section 248(5) of the Companies Act, 2013. The Appellant has admitted that the strike-off resulted from the company's failure to file its financial statements and annual returns.
7. Upon consideration of the material available on record, this Tribunal is satisfied that the Respondent/Registrar of Companies was justified in striking off the



name of the Company from the Register of Companies in accordance with the provisions of the Companies Act, 2013. The records demonstrate that the Appellant Company had failed to file its statutory returns from the financial year 2011-12 onwards and had not sought the status of a dormant company under Section 455 of the Companies Act, 2013.

8. However, Section 252 (3) of the Companies Act, 2013 confers powers on this Tribunal to order for restoration of the name of the Company in the Register of companies maintained by ROC, on an appeal made by the (i) Company (ii) Member (iii) creditor or (iv) workman before the expiry of 20 years from the date of publication in Official Gazette of the notice under Section 248 (5) of the Act, if the Tribunal is satisfied that the Company was, at the time of its name being struck off, carrying on business or in operation or otherwise just that the name of the company be restored to the Register of Companies.
9. The provision pertaining to the restoration of the name of the Company as provided in Section 252 of the Companies Act, 2013, is reproduced below:

Section 252: -

“(1) Any person aggrieved by an order of the Registrar, notifying a company as dissolved under section 248, may file an appeal to the Tribunal within a period of three years from the date of the order of the Registrar and if the Tribunal is of the opinion that the removal of the name of the company from the register of companies is not justified in view of the absence of any of the grounds on which the order was passed by the Registrar, it may order restoration of the name of the company in the register of companies:

Provided that before passing any order under this section, the Tribunal shall give a reasonable opportunity of making representations and of being heard to the Registrar, the company and all the persons concerned :

Provided further that if the Registrar is satisfied, that the name of the company has been struck off from the register of companies either inadvertently or on the basis of incorrect information furnished by the



company or its directors, which requires restoration in the register of companies, he may within a period of three years from the date of passing of the order dissolving the company under section 248, file an application before the Tribunal seeking restoration of name of such company.

(2) A copy of the order passed by the Tribunal shall be filed by the company with the Registrar within thirty days from the date of the order and on receipt of the order, the Registrar shall cause the name of the company to be restored in the register of companies and shall issue a fresh certificate of incorporation.

(3) If a company, or any member or creditor or workman thereof feels aggrieved by the company having its name struck off from the register of companies, the Tribunal on an application made by the company, member, creditor or workman before the expiry of twenty years from the publication in the Official Gazette of the notice under sub-section(5) of section 248 may, if satisfied that the company was, at the time of its name being struck off, carrying on business or in operation or otherwise it is just that the name of the company be restored to the register of companies, order the name of the company to be restored to the register of companies, and the Tribunal may, by the order, give such other directions and make such provisions as deemed just for placing the company and all other persons 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.

10. The Respondent/Registrar of Companies has not opposed the relief sought by the Appellant for restoration of its name to the Register of Companies. The Appellant has also undertaken to comply with all statutory requirements and to take necessary measures to regularise the defaults committed by the Company. In the absence of any objection from the Respondent/ROC and having regard to the object and purpose of Section 252 of the Companies Act, 2013, this Tribunal considers it appropriate to take a liberal view and grant the Appellant an opportunity to restore the Company and bring its affairs into compliance with law.

11. Upon perusal of the appeal, this Tribunal is of the considered view that sufficient grounds exist for restoring the name of the Company to the Register



of Companies. In the present case, the Appellant, being one of the shareholders holding 50% of the share capital of the Company, has invoked the provisions of Section 252(3) of the Companies Act, 2013, seeking restoration of the name of the Company. Along with the appeal, the Appellant has placed on record the Balance Sheets for the Financial Years 2011–12 to 2024–25, which *prima facie* reflect that, at the time of passing the order under Section 248 of the Companies Act, 2013, the Company was in operation and carrying on its business. Although the Company had committed certain statutory defaults, the Respondent/ROC, after following the due procedure prescribed under the Act, struck off the name of the Company from the Register of Companies.

12. Certainly, Section 252(3) does not mandate going into the merits of an order passed under Section 248 of the Companies Act, 2013, but the NCLT used to call for a report from ROC, subject to a satisfactory response to the objections raised by ROC. Once a person has the *locus* to file an appeal and has placed on record *prima facie* proof that, at the time of the order under Section 248, the Company was carrying on its business or was in operation, the Tribunal, after recording its satisfaction, can pass appropriate orders.
13. The right given to the Company, along with any member, creditor, or workman, to file an appeal under Section 252(3) of the Companies Act, 2013, demonstrates the legislative intent that even a struck-off Company retains a limited statutory personality for the purpose of seeking its revival. Under Section 248 of the Companies Act, 2013, a "struck-off" status removes a company's name from the official register. While it ceases active operations, it legally "survives" for specific limited purposes like recovering debts, settling past liabilities, clearing statutory dues, and resolving legal disputes. If the appellant has established that the Company was carrying on business and was in operation and has the intention to continue with its normal operations, or that the restoration is otherwise just and



equitable, the NCLT is empowered to pass appropriate orders under the given circumstances. However, the said orders would not exempt the Company from paying the regular fees and penalties, if applicable, for its previous non-compliances.

14. We are of the considered view that the Appellant is a shareholder and in the light of the above findings, this Company Appeal is maintainable in the eyes of law. Accordingly, the present appeal is **allowed** on the following terms: -

- i. The Registrar of Companies, Kerala/Lakshadweep, the Respondent herein, is directed to restore the original status of the Appellant Company, **M/s. Silvernest Habitat Private Limited**, as if the name of the Company had not been struck off from the Register of Companies, with the resultant and consequential actions like changing the status of the Appellant Company from “**Strike off**” to “**Active**”.
- ii. The Appellant Company is directed to file all pending statutory document(s), including Annual Accounts for the period and Annual returns along with prescribed fees/additional fees/fines as decided by the Registrar of Companies, Kerala/Lakshadweep, within 45 days from the date on which its name is restored on the Register of Companies maintained by the Registrar of Companies, Kerala/Lakshadweep.
- iii. The restoration of the Company’s name is also subject to the payment of **Rs. 10,000/- (Rupees Ten thousand Only) per financial year** for which the Company has not filed their financial returns with the ROC towards cost payable through online payment in www.mca.gov.in under miscellaneous fees by mentioning the



particulars as **“payment of cost for revival of Company”** within thirty days from the date of receipt of the copy of this Order.

- iv. The restoration of the Appellant Company's name in the Register will be subject to their filing all outstanding documents for the defaulting years as required by law and completion of all formalities, including payment of any late fee or other charges that are leviable by the Respondent for the late filing of statutory returns. The name of the Appellant Company shall then stand restored in the Register of the ROC, as if the name of the company had not been struck off.
- v. The appellant company is directed to file a copy of this Order with the ROC within 30 days of the receipt of this Order. ROC shall give effect to this Order only after perusal of the Compliance report of the cost imposed.
- vi. On such delivery and after due compliance with the above directions, the Registrar of Companies, Kerala/Lakshadweep, is directed to publish the order in the Official Gazette under his office name and seal;
- vii. This Order is confined to the violations, which ultimately led to the impugned action of striking off the name of the Company, and it will not come in the way of Registrar of Companies, Kerala/Lakshadweep to take appropriate action(s) in accordance with law, for any other violations/offences, committed by the Appellant Company prior to or during the striking of the Company. The Appellant Company shall make good the offences, if any, arising out of non-compliance with various sections under the Companies Act, 2013.



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15. Accordingly, **Company Appeal (C/Act)/12/KOB/2026 is allowed and disposed of.**
 16. The Registry is directed to send e-mail copies of this order forthwith to all the parties, inclusive of the Counsel.
 17. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

Sd/-
RAVICHANDRAN RAMASAMY
(MEMBER TECHNICAL)

Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 28th day of July, 2026.

JL/Steno