

15
**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 38/252/NCLT/AHM/2017

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2018**

Name of the Company: Anushka Security Services Pvt Ltd
(Ajay Singh Yadav)
V/s.
Registrar of Companies.

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>
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1.

2.

ORDER

None present for Appellant. None present for ROC.

Order pronounced in open court. Vide separate sheets.


MANORAMA KUMARI
MEMBER JUDICIAL


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 6th day of February, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 38/252/NCLT/AHM/2017

In the matter of:

M/s. Anushka Security Services Private Limited.

In the matter between :

Mr. Ajay Singh Yadav,
Ex-Director of
M/s. Anushka Security Services
Private Limited.
Q-4, Apex Bank Training College,
P & T Chouraha, Kotra,
Bhopal-462003 (M.P.)

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh (Gwalior)
3rd Floor, A Block,
Sanjay Complex,
Jayendraganj,
Gwalior-474009
Madhya Pradesh.

: Respondent.

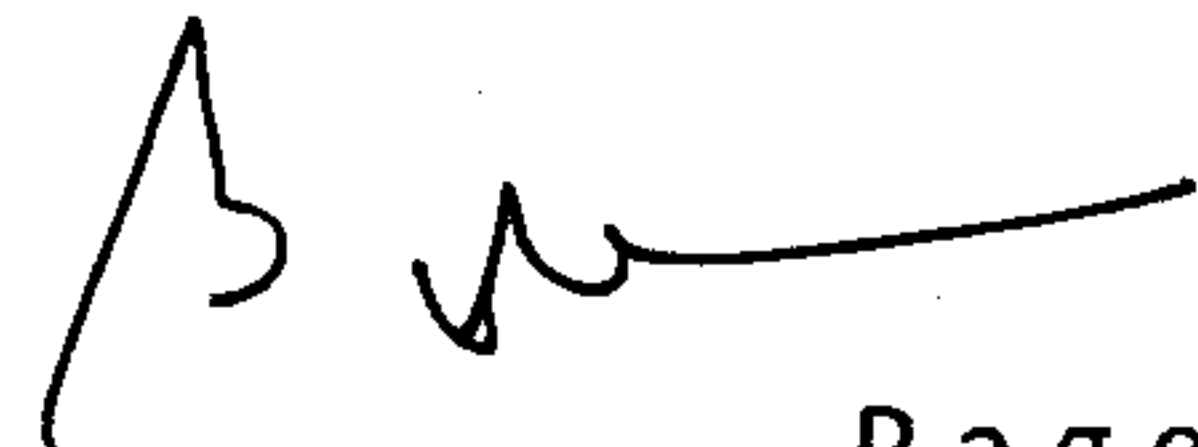
Order delivered on 6th February, 2018.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J) – And
Hon'ble Ms. Manorama Kumari, Member (J).**

Appearance:

Mr. Abhishek Modi with Mr. Samank Mohabe, learned PCSs for the
Appellant.

None present for ROC.



ORDER

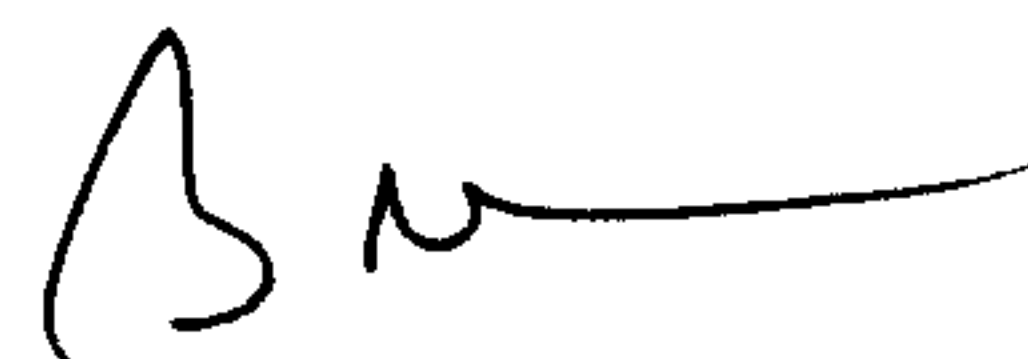
[Per: Hon'ble Ms. Manorama Kumari, Member (Judicial)]

1. This Appeal is filed under Section 252(3) of the Companies Act, 2013 by the Appellant seeking restoration of the name of the Company, i.e., M/s. Anushka Security Services Private Limited as its ex-Director and Member in the Register of Companies maintained by the Registrar of Companies, Madhya Pradesh, Gwalior. ["ROC" for short].

2. The facts in brief, which necessitated the Appellant to file this Appeal, are as follows;

2.1. It is stated that the ROC vide his Notice No. ROC-G/248(5)/2017/2915 dated 9th June, 2017 issued under sub-section (5) of Section 248 of the Companies Act and Rule 9 of the Companies (Removal of Names of Companies from the Register of Companies) has struck off the name of the Company from the Register of Companies and got it published in the Official Gazette of the Government.

2.2. According to the Appellant, the Company has not received any statutory notice as contemplated under Section 248(1) of the Companies Act. According to the Appellant, the Company could not file the statutory returns and financial statements due to the reasons such as the Company has been facing business crisis for past two years; the Company was unaware of the legal compliances to be performed; failure to file the annual returns and financial statements was unintentional and it was not deliberate etc,. The Company has submitted that it has established its business and operation in the market after a lot of struggle, and if the name of the Company is not restored the Company's business and operational effectiveness will suffer and it will incur additional costs.



3. Upon notice, the ROC has filed Report dated 11th December, 2017 and represented that the name of the Company was struck off on suo motu basis on 9.6.2017 due to non-filing of Annual Returns and Balance Sheet for the financial years 2011-12 to 2016-17, and that both the Directors have been disqualified under Section 164(2)(a) of the Companies Act, 2013.

4. The Appellant has filed Affidavit dated 18th December, 2017 and annexed therewith copy of Bank Statement of the Company, Income Tax Returns for the Financial Years from 2014-15 to 2016-17 and Certificate of the Chartered Accountant regarding financial operations of the Company.

5. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Appellant being an Ex-Director/Member is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Anushka Security Services Private Limited was struck off on 9th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 11th October, 2017. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Anushka Security Services Private Limited is that the Company has failed to file Annual Returns and Balance Sheet for the financial years 2011-12 to 2016-17.

7. The material on record also goes to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at C-5, MPSRTC Depo Shopping Complex, Depo Square, Jawahar Chowk, Bhopal, Madhya Pradesh.

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8. 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. Anushka Security Services Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, and also to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

9. In view of the above, the instant Appeal is allowed directing the Registrar of Companies, Gwalior, Madhya Pradesh to restore the name of the Company in the Register of Companies upon Appellant's 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.

10. The Appeal stands disposed of accordingly.

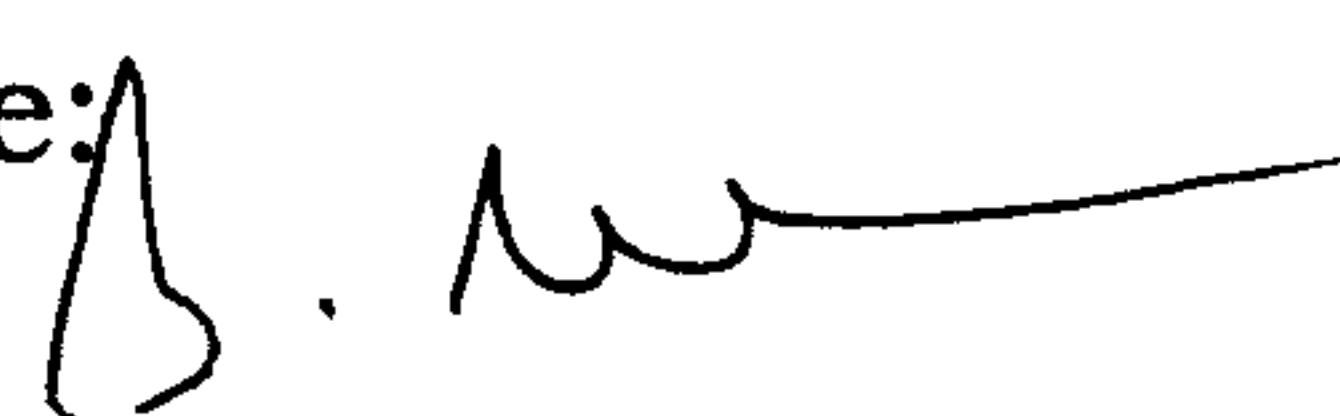
Signature:



**Ms. Manorama Kumari,
Member (Judicial)**

Rmr..

Signature:



**Sri Bikki Raveendra Babu,
Member (Judicial)**