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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 4/252/NCLT/AHM/2018

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 16.02.2018**

Name of the Company: Thirdeye Security Services Pvt Ltd
V/s.
ROC, Gwalior.

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 MANISH BUCHASIA	PCS cop IT 4/186	Applicant	M. Manish
2.				

ORDER

Learned PCS Mr. Manish Buchasia present for Appellant. None present for ROC.

Order pronounced in open Court. Vide separate sheets.


**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 16th day of February , 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 4/252/NCLT/AHM/2018

In the matter of:

M/s. Hindustan Mines Private Limited.

In the Matter between:

M/s. Thirdeye Security Services
Private Limited,
Registered Office at
LG 21 BCM Heights, PU-4,
Commercial Sector, Scheme No.54,
Vijay Nagar,
Indore-452010
Madhya Pradesh

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh (Gwalior)
III Floor, A Block,
Sanjay Complex,
Jayendraganj,
Gwalior 474009 M.P.

: Respondent.

Order delivered on 16th February, 2018.

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

Appearance:

Mr. Manish Buchasia, learned PCS for the Appellant.
None present for Registrar of Companies.

ORDER

1. The Appellant Company above named, who is a Shareholder holding shares in M/s. Hindustan Mines Private Limited, through its Shareholder and Director, Shri Hitendra Singh Jadon, by way of this Appeal, seeking restoration of the Company, namely, M/s. Hindustan Mines Private Limited, which was struck off from the Register of Companies by the Registrar of Companies, Gwalior, Madhya Pradesh ["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 Public Notice No.1 dated 10.3.2017 issued in Form No. STK-5 followed by Notice No. ROC-G/248(5)/2017/2949 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 inter alia on the ground that the Company has not been carrying on any business or operation for a period of two immediately preceding financial years and have not made any application within such period for obtaining the status of dormant company under Section 455.

3. It is submitted by the Appellant that the Company, namely, M/s. Hindustan Mines Private Limited, has been carrying on its business and doing operations in the field of mining since inception; the Company which was struck off could not file its



financial statements since the year 2011 as its Board of Directors were not aware about the statutory filings to be made to ROC due to lack of professional guidance and support to the management; and non-filing of statutory documents with ROC was an inadvertent mistake but it was not deliberate.

3.1. The Appellant Company has along with the Appeal has filed copies of Audited Financial Statements for the years from 2014-15 to 2016-17; Income Tax Return for the year 2016-17 and other documents relating to M/s. M/s. Hindustan Mines Private Limited.

4. On Notice being issued and served upon the ROC, the ROC has filed Reply dated 2.2.2018 through his Deputy Registrar along with his Affidavit wherein it is represented that the name of the Company was struck off from the Register of Companies on suo motu basis on 14.6.2017 due to non-filing of Annual Returns and Balance Sheet for the financial years 2010-11 to 2016-17.

5. In pursuance of the order passed by this Tribunal, the Appellant and its Director who is Shareholder in M/s. Hindustan Mines Private Limited, has filed Affidavit showing status of the Directors and Bank account of the Company and also filed copies of Audited Financial Statements for the year ended from 31st March, 2011 to 31st March, 2014; copy of Income Tax Return for the financial year 2016-17; and copy of Bank Statement.

Chandra

6. This Appeal is filed by the Appellant Company whose Director is also a Shareholder of M/s. Hindustan Mines Private Limited under Section 252(3) of the Companies Act and he being Director and Shareholder is entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Hindustan Mines Private Limited was struck off on 14th June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 11th December, 2017. Therefore, this Appeal is within time.

7. From the material available on record, the only reason for striking off the name of the Company, M/s. Hindustan Mines Private Limited is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies for the financial years 2010-11 to 2016-17.

8. The material on record also goes on to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at BCM Heights, Near Bombay Hospital, Indore, Madhya Pradesh.

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

Abur

10. In view of the above, the instant Appeal is allowed and the Registrar of Companies, Gwalior, Madhya Pradesh is directed to restore the name of the Company, M/s. Hindustan Mines Private Limited 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.

11. The Appeal stands disposed of accordingly.

Signature:


Ms. Manorama Kumari,
Member (Judicial)

Rmr..