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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 13/252(3)/NCLT/AHM/2018**

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 19.02.2018**

Name of the Company: Gopal Kushwaha  
(Anand Landmark Developers & Associates Pvt Ltd)  
V/s.  
ROC Gwalior.

Section of the Companies Act: Section 252(3) 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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**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 19th day of February, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 13/252/NCLT/AHM/2018**

**In the matter of:**

Mr. Gopal Kushwaha,  
Member,  
M/s. Anand Landmark Developers  
& Associates Private Limited,  
Registered Office at  
2/1,104, Krishna Tower,  
Near Janjir Wala Square,  
New Palasia,  
Indore-452001 Madhya Pradesh.

: Appellant.

Versus

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

: Respondent.

Order delivered on 19<sup>th</sup> February, 2018.

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

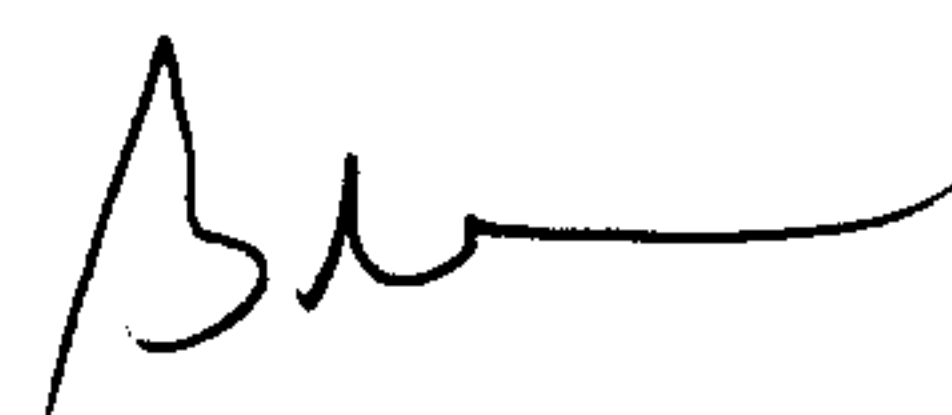
**Appearance:**

Mr. Vishwaskumar Sharma, learned PCS for the Appellant.

None present for Registrar of Companies.

**ORDER**

**[Per: Hon'ble Ms. Manorama Kumari, Member (J).**



1. The Appellant above named, who is Member, by way of this Appeal, seeks for restoration of the Company, namely, M/s. Anand Landmark Developers & Associates 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-1 followed by Notice No. ROC-G/248(5)/2017/2915 dated 9<sup>th</sup> June, 2017 issued in Form No. STK-7 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. The Appellant has submitted, the Company has neither received the notice for default under Section 137/92/96 of the Companies Act, 2013, i.e., for non-filing of statutory documents nor has it received notice under 248(1) for removal of the Company from the ROC; and the Company is carrying on business of land development and construction work. It is further stated that due to

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lack of knowledge in the Company Law matters and the Company had not hired services of experts in the field the Company did not complete filing of relevant documents with the ROC; and the Company has no mala fide intentions and due to sheer inadvertence the Annual Accounts and Annual Returns could not be completed within the prescribed time.

3.1. Along with the Appeal, the Appellant has filed list of Directors and Shareholders; copies of Auditor's Report along with Balance Sheet, Statement of Profit & Loss accounts for the years 2013-14 to 2015-16; copies of Acknowledgements of Income Tax Returns for Assessment Years 2015-16 and 2016-17; copies of Statements of Bank Accounts showing their status; etc.

4. On Notice being issued and served upon the Respondent/ROC, the ROC filed Reply Affidavit dated 31.1.2018 on 5<sup>th</sup> February, 2018 stating 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 2013-14 to 2016-17. The ROC has further stated that the Company has not disclosed the proof of filing of Income Tax Returns.

5. In pursuance of the order of this Tribunal, the Appellant filed Affidavit dated 2<sup>nd</sup> February, 2018 showing status of the

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Directors, and annexed therewith copies of Statements of Bank Accounts to show their status.

6. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act and he, being a Member, is entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Anand Landmark Developers & Associates Private Limited, was struck off on 9<sup>th</sup> June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 10<sup>th</sup> January. 2018. 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. Anand Landmark Developers & Associates Private Limited, is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies from the financial year 2013-14 onwards.

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 Krishna Tower, New Palasia, 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

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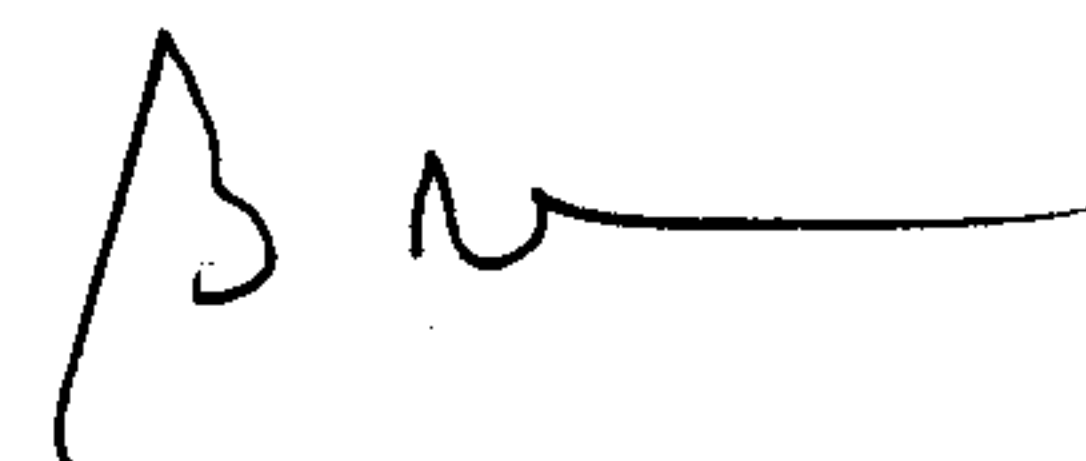
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of the Company M/s. Anand Landmark Developers & Associates Private Limited, in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

10. 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






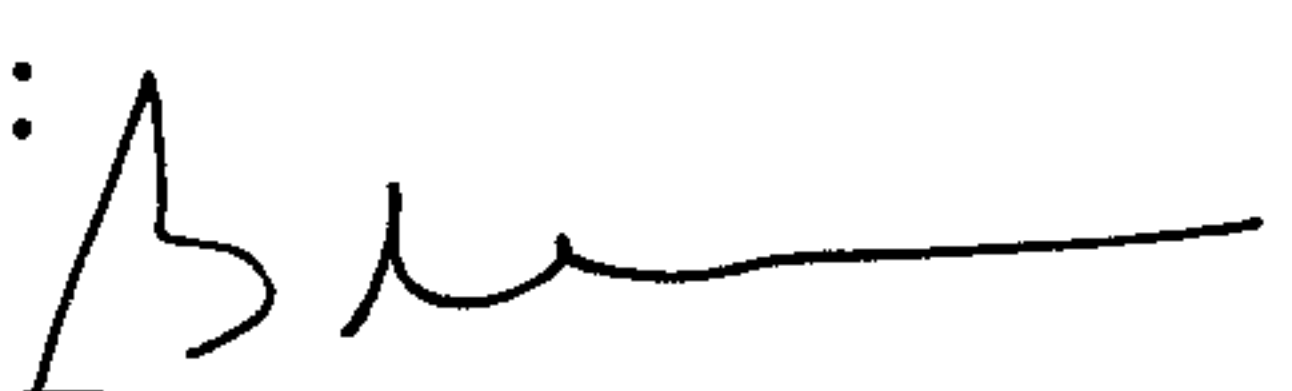
striking off the name of the Company within 3 (three) weeks from the date of this order.

11. The Appeal stands disposed of accordingly.

Signature:

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

Signature:

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

Rmr..