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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 8/252(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 21.02.2018**

Name of the Company: Santosh Jagdish Pandey & Anr.
(Jagdish IT & HR Solutions 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 Appellants. None present for ROC.

Order pronounced in open court. Vide separate sheets.


MANORAMA KUMARI
MEMBER JUDICIAL


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 21st day of February, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 8/252/NCLT/AHM/2018

In the matter of:

1. Shri Santosh Jagadish Pandey,
391, Indrapuri Colony,
Indore, Madhya Pradesh.
2. Shri Jitendra Sriramagiri,
391, Indrapuri Colony,
Indore, Madhya Pradesh. : Appellants.

Versus

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

Order delivered on 21st February, 2018.

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

Appearance:

Mr. Prashant Patel, learned Advocate for the Appellants.

None present for Registrar of Companies.

ORDER

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

1. The Appellants above named are Members and by way of this Appeal, seeking restoration of the Company, namely, M/s.

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Jagadish IT & HR Solutions 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 Appellants 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)/2017/2949 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.

2.2. The Appellants have submitted that their Company is a new Company and due to oversight the Directors did not file the annual returns and balance sheets as required under the provisions of the Companies Act, 2013; there was no mala fide intention on the part of the Company or its Directors; the Company can be profitably run by the Directors which shall enhance the net worth of the shareholders; if the Company is restored to the file of ROC, no person will be prejudiced etc. The Appellants have given the data to show

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that the Company has been carrying on its business since incorporation of the Company.

2.3. Along with the Appeal, the Appellants have filed copies of Audited Balance Sheets for the financial years 2012-13 to 2016-17; copy of Indian Income Tax Return Acknowledgement for the Assessment Year 2016-17 etc.

3. Though Notice was issued on the Respondent/ROC and order was served on the ROC, no Reply has been filed by the ROC.

4. In pursuance of the order of this Tribunal, the Appellants have filed Affidavit dated 1st February, 2018 regarding status of the Directors and bank account of the Company and annexed thereto copy of the Income Tax Return for the Assessment Year 2017-18.

6. This Appeal is filed by the Appellants under Section 252(3) of the Companies Act and they being Shareholders are entitled to file it seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Jagadish IT & HR Solutions 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 2nd January, 2018. Therefore, this Appeal is within time.

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7. From the material available on record, the only reason for striking off the name of the Company, M/s. Jagadish IT & HR Solutions Private Limited, is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies for a period of two immediately preceding financial years.

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 Rest House Road, Korma, Anuppur-484334, 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. Jagadish IT & HR Solutions 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 and the Registrar of Companies, Gwalior, Madhya Pradesh is directed to restore the name of the Company in the Register of Companies upon Appellants' complying with the following conditions;

(i) The Appellants shall file all over due statutory returns with fee and additional fee as required under the Companies Act;

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(ii) The Appellants 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 Appellants;

(iii) The Appellants 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..