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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 76/252(3)/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 28.03.2018**

Name of the Company: Jatin Girishbhai Bhatt.
(JSK Education and Training Pvt Ltd)
V/s.
ROC. Gujarat.

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 the Appellant. None present for the ROC.

Order pronounced in the open court. Vide separate sheets.

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**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 28th day of March , 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 76/252/NCLT/AHM/2018

In the matter of:

Mr. Jatin Girishbhai Bhatt,
Shareholder of
M/s. JSK Education and Training
Private Limited,
23, Mahasagar Flats,
Maninagar,
Ahmedabad-380008, Gujarat. : Appellant.

Versus

Office of Registrar of Companies,
(Gujarat, Dadra & Nagar Haveli),
ROC Bhavan, Opp: Rupal Park,
Naranpura,
Ahmedabad-380013. : Respondent.

Order delivered on 28th March, 2018.

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

Appearance:

Mr. Kiran Shah, learned FCA for the Appellant.

None present for Registrar of Companies.

ORDER

1. By way this Appeal is filed under Section 252(3) of the Companies Act, 2013, the Appellant herein seeks for restoration of name of the Company, M/s. JSK Education and Training Private

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Limited, in the Register of Companies maintained by the Registrar of Companies, Gujarat, Ahmedabad ["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.ROC/STK/5A/ dated 25.4.2017 issued in Form No. STK-5 followed by Notice No. ROC/AHMD/248(5)/STK-7/5706 dated 21st 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 Appellant has submitted that the Company had been active since incorporation. The Appellant has further submitted that the Company could not file the Annual Returns and Financial Statements from the financial year 2010 onwards with the Registrar of Companies, and reasons attributed to are lack of fund availability and unfavourable economic conditions; the Company was not financially stable to bear the legal cost; the Company had no professional support to make necessary compliances of filing financial statements and annual returns etc.

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2.3. The Appellant has filed copy of list of shareholders and Directors as on 31st March, 2017; copies of Financial Statement for the year 2009-10; copies of Income Tax Returns for the Assessment Years 2010-11 and 2011-12; copy of Bank Account Statement etc.

3. Upon issuance notice, the ROC has filed Representation 13th March, 2018 through his Deputy Registrar wherein he has denied the allegations and contentions raised in the Appeal, and represented that as the Company has failed to file its statutory returns from financial year 2010-11 to 2016-17, the ROC has initiated action under Section 248(1) of the Companies Act, 1956 and by issuance of final notice dated 21st June, 2017 which was published in the Official Gazette of Government of India the name of the Company was struck off.

3.1. In pursuance of order of notice, the Appellant has filed Affidavit dated 12th March, 2018 before this Tribunal.

4. 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. JSK Education and Training Private Limited was struck off on 21st June, 2017 from the Register of Companies and the same was published in the Gazette of

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India. This Appeal was filed on 22nd February, 2018. Therefore, this Appeal is within time.

5. From the material available on record, the only reason for striking off the name of the Company, M/s. JSK Education and Training Private Limited,, is that the Company has failed to file the statutory returns with the Registrar of Companies from 2010-11 to 2016-17.

6. 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 Mahasagar Flats, Maninagar, Ahmedabad, Gujarat.

7. 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. JSK Education and Training Private Limited, in the Register of Companies maintained by the ROC, Gujarat, Dadra & Nagar Haveli, and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013.

8. In view of the above, the instant Appeal is allowed directing the Registrar of Companies, Gujarat, Dadra & Nagar Haveli to restore

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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. 25,000/- 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.

9. The Appeal stands disposed of accordingly.

Signature:



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