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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 79/252/NCLT/AHM/2017

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 27.02.2018**

Name of the Company: Ms. Pawan Pateriya
(Radiation Worldwide (India) Pvt Ltd)
V/s.
ROC, Gwalior

Section of the Companies Act: Section 252 of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1.

2.

ORDER

None present for Appellant. None present for ROC.

Order pronounced in open Court. Vide separate sheets.

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**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 27th day of February , 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 79/252/NCLT/AHM/2018

In the matter of:

Mrs. Pawan Pateriya,
M-704, Vijay Stambhi Zone-I
M.P. Nagar,
Bhopal-462011
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 27th February, 2018.

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

Appearance:

Ms. Chitranshi Jain, on behalf of CJ & Associates, learned PCS for the Appellant.

None present for Registrar of Companies.

ORDER

1. By way of this Appeal, one of the Members/Directors of the Company namely, M/s. Radiation Worldwide (India) Private Limited, seeks for restoration of the name of the Company which was

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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)/2017/2949 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 with effect from 26th May, 2017 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 has been continuously carrying on the business on small scale basis since incorporation; the Company regularly filed various returns with various Government departments; got its accounts regularly audited; and due to inadvertence of the management of the Company the Balance Sheets and Profit and Loss Accounts and Annual Returns were not filed; and there was no mala fide intention on the part of the management of the Company for non-filing of such documents.

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2.3. Along with the Appeal, the Appellant has filed copies of Annual Reports and Acknowledgments of IT Returns for Assessment Years 2012-13 to 2017-18; Auditors Report, Directors Report, Balance Sheet, Profit and Loss Accounts for the Financial Years 2010-11 to 2016-17, List of Shareholders, etc.

3. In spite of service of order of Notice issued on the Respondent/ROC, no Reply has been filed by the ROC.

4. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act who is one of the Directors/Shareholders and she is entitled to file the Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Radiation Worldwide (India) Private Limited was struck off with effect from 26th May, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 28th November, 2017. 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. Radiation Worldwide (India) Private Limited is that the Company has failed to file statutory documents such as Annual Returns and Balance Sheets with the Registrar of Companies.

Answer

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 M.P. Nagar, Zone-1, Bhopal, Madhya Pradesh.

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. M/s. Radiation Worldwide (India) 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.

8. 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 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

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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.

9. The Appeal stands disposed of accordingly.

Signature: 

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

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