

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 25/252(3)/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, 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 12.03.2018**

Name of the Company: Mukesh Kumar Gupta
(Dabang Earth Movers 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

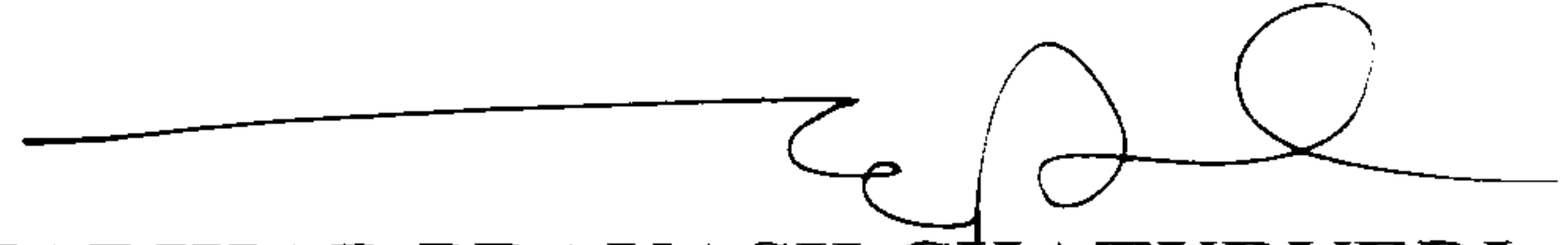
None present for Appellant. None present for ROC.

Order pronounced in open court. Vide separate sheet.



MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 12th day of March, 2018.



HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 25/252(3)/NCLT/AHM/2018

In the matter of:

Dabang Earth Movers Private Limited

In the matter between:

Mukesh Kumar Gupta
Chandra Shekhar Azar, Ward No. 5
Azad Chowk
Katni 483 501 (M.P.) : Appellant

Versus

Registrar of Companies,
Jayendra Ganj, Sanjay Complex
Gwalior (M.P.) Respondent.

Order delivered on 12th March, 2018.

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J)**

Appearance:

Learned PCS Mr. Rajesh Lohia present for appellant. None present for ROC





ORDER

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

1. By way of this Appeal, member/Director of the Company namely, Dabang Earth Movers Private Limited, seeks for restoration of the name of the Company 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;
3. It is stated that the ROC vide Public Notice No. ROC-G/248(5)/2017/18653 dated 21.09.2017 issued in Form No. STK-7 followed by final notice 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 21.09.2017 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.
4. The Appellant has submitted that the ROC has struck off the Company's name from the Register of Companies due to defaults in statutory compliances, namely failure to file Financial



Statements and Annual Returns for the years 2013-14 onwards. The Appellant has further submitted copy of bank statement, latest income-tax return, copy of balance sheet for the year 2013-14, 2014-15, 2015-16, 2016-17, provisional balance sheet as on 21.09.2017, consent of all shareholders etc.

5. Notice was issued to ROC, Gwalior on 09.02.2018 informing the date of hearing. In compliance of the order appellant also filed track report, showing the delivery of notice on 12.02.2018. But, no representation is received from ROC.
6. This Appeal is filed by the Appellant under Section 252(3) of the Companies Act and he being a Shareholder/Director is entitled to file the Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, Dabang Earth Movers Private Limited, was struck off on 21.09.2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 16th 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, Dabang Earth Movers Private Limited, is that the Company has failed to file Annual Returns and Balance Sheets with the Registrar of Companies since incorporation.

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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 New Bus Stand, Katni 483 501 (M.P.)
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 Dabang Earth Movers 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 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; and other laws within stipulated period stated therein, or within 90 days from the receipt of an authentic copy of this order and after restoration of its name in the Register of ROC, Gwalior.


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- (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 and shall file compliance.

11. The Appeal stands disposed of accordingly.



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



**Harihar Prakash Chaturvedi,
Member (Judicial)**

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