

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 321/252(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 29.08.2018**

Name of the Company: Aruna Bhadoria
(Index Impex Pvt. Ltd.)
V/s.
Registrar of Companies. MP.

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 appeared on behalf of the Appellant as well as ROC.

The Order is pronounced in the open court, vide separate sheet.



MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 29th day of August, 2018



HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 321/252(3)/NCLT/AHM/2018

In the matter of:

M/s. Index Impex Private Limited

In the matter between:

1. Ms. Aruna Bhadoria
9, Gulmohar Extension
INDORE 452 001 (M.P.) : Applicant

Versus

Registrar of Companies,
IIIrd Floor, 'A' Block,
Sanjay Complex,
Jayendraganj
Gwalior (M.P.) Respondent

Order delivered on 29th August, 2018

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

Appearance:

Advocate Mr. Md. Arkam Shaikh is present for the appellant.

ORDER

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

1. By this Appeal, the Company namely, M/s. Index Impex Private Limited, seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short] by its impugned order dated 14.06.2017 has struck off the name of the company. Being aggrieved with this action the appellant being director/shareholder of the company has prayed for the following relief: -





- (i) Orders for restoration of the name of the petitioner company in the register of Companies maintained by the ROC and necessary directions to that effect be given to the ROC;**
- (ii) directions for allowing the petitioner company for filing of the balance sheets, statutory auditor's reports, director reports and annual returns for the year 2006-07, 2007-2008, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 with the filing fees and additional filing fee as provided under section 403 read with the Companies (Registration Offices and Fees) Rules, 2014;**
- (iii) orders for removal of disqualifications of Directors of the company in order to enable them to file balance sheets, statutory auditors report etc. for the year 2006-07, 2007-2008, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 with the filing fees and additional filing fee as provided under section 403 read with the Companies (Registration Offices and Fees) Rules, 2014;**
- (iv) Orders for defreeze the bank account of the company in order to enable them to operate bank account of the Company in respect of doing business transactions, further day to day business affairs and other relevant transaction of the Company.**

2. The facts in brief, those are necessary for disposal of the present Appeal are stated as under;

3 It is stated that the ROC vide its Public Notice No. ROC-G/248(5)/2017/2949 dated 14.06.2017 (issued in Form No. STK-7) followed by final notice (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 14.06.2017 inter alia on the ground that the Company has not filed annual returns and balance sheets for the financial year 2006-07 to 2016-17 nor it made any application to the ROC within such period for obtaining the status of dormant company under Section 455.

4. It is submitted by the appellant that the objects for which the company is established are to carry on in India or elsewhere the business to manufacture, develop, distribute, supply, import,

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export, buy, sell, re-sell of all kinds of auto motives and automobile parts, accessories, equipment etc.

5. The appellant has submitted that, non-filing of financial statements and annual returns with the respondent was neither intentional nor mala fide act of petitioner or Board of Directors or the company.
6. The appellant company M/s. Index Impex Private Limited was incorporated on 01st July, 2003 with the Registrar of the Companies, Gwalior. Registered office of the company is situated at 1/6, Manoramaganj, Indore, Madhya Pradesh – 452 001.
7. In the present appeal, representation of ROC, Gwalior dated 17th July, 2018 is received, wherein it is averred that the appeal may be considered on merits subject to filing of balance sheet due for financial year from 2006-07 onwards with additional fees as per the requirement of the Companies Act, 2013/1956.
8. On perusal of the record it is observed that Income Tax Return has been filed since incorporation of the company. In the memo of appeal, the appellant has submitted that it is not a shell company and no unusual transaction took place during the demonetisation period.

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9. The Appellant, Ms. Aruna Bhadoria has filed the present appeal under Section 252(3) of the Companies Act as being Director/Shareholder of the company, she is entitled to file the same seeking for restoration of the name of the Company. Therefore, the present Appeal is found maintainable. Further the name of the Company, M/s. Index Impex Private Limited, was struck off on 14.06.2017 from the Register of Companies and the same was got published in the Gazette of India. While the present Appeal is filed on 18th June, 2018, hence the Appeal is filed well within limitation.
10. On perusal of the material available on record, the main reason shown for striking off the name of the Company is that the Company failed to file its Annual Returns and Balance Sheets with the Registrar of Companies in time.
11. 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. Index Impex 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.
12. 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;

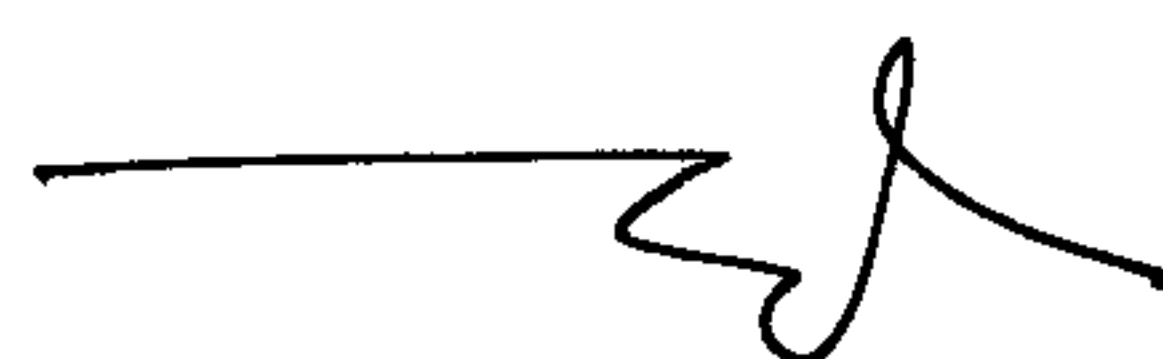
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- (i) The Appellant shall file all over due statutory returns with fee and additional fee as required under the Companies Act; and other laws within stipulated period stated therein, or within 90 days from the receipt of an authentic copy of this order and after restoration of its name in the Register of ROC, Gwalior.
- (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 is further directed to pay an amount of Rs. 25,000/- to the Central Government, Ministry of Corporate Affairs through the Office of the ROC 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 receipt of an authentic copy of this order and shall file compliance.

13. The Appeal stands disposed of accordingly.



Ms. Manorama Kumari
Member (Judicial)



Harihar Prakash Chaturvedi
Member (Judicial)