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**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**Co. Appeal No. 80/252/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 10.04.2018**

Name of the Company: Babulal Shishupal Sharma  
(Neon Life Care Pvt Ltd.)  
V/s.  
Registrar of Companies, 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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1.

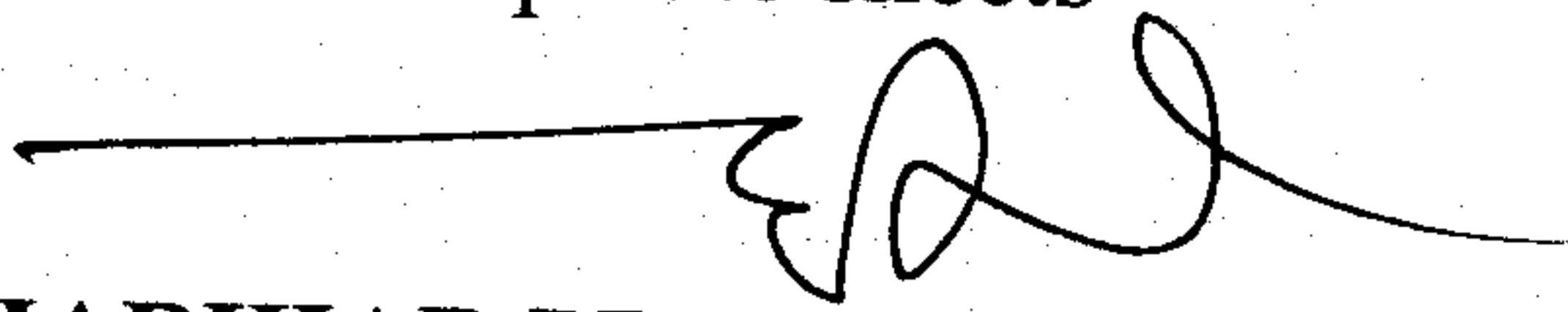
2.

**ORDER**

None present for the Appellant. None is present for the ROC.

The order is pronounced in the open court. Vide separate sheets

  
**MANORAMA KUMARI  
MEMBER JUDICIAL**

  
**HARIHAR PRAKASH CHATURVEDI  
MEMBER JUDICIAL**

Dated this the 10th day of April, 2018.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 80/252(3)/NCLT/AHM/2018**

**In the matter of:**

Babulal Shishupal Sharma,  
Member of  
M/s. Neon Life Care Private Limited,  
Registered Office at  
Plot No. 508, Phase-II,  
Vinzol Rly. Crossing, GIDC, Vatva,  
Ahmedabad-382445  
Gujarat.

: Appellant.

Versus

The Registrar of Companies, Gujarat,  
ROC Bhavan, Opp: Rupal Park Society,  
Behind Ankur Bus Stop, Naranpura,  
Ahmedabad-380013.

: Respondent.

Order delivered on 10<sup>th</sup> April, 2018.

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

**Appearance:**

Mr. Vishwaskumar Sharma, learned PCS for the Appellant.

None present for the Registrar of Companies.

**ORDER**

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

1. By way of this Appeal filed under Section 252(3) of the Companies Act, 2013, the Appellant above named, seeks order for





restoration of the name of the Company, M/s. Neon Life Care Private Limited, in the capacity of Member of the said Company, in the Register of Companies maintained by the Registrar of Companies, Gujarat, Dadra & Nagar Haveli, ["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/PUB/1 dated 21<sup>st</sup> 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 is carrying on business of pharmaceutical products; the Appellant has admitted that the Company has not filed Annual Returns since its incorporation to Financial Year 2015-16 which was due to lack of knowledge in the Company Law matters and the Company having not hired services of experts in the field; due to sheer inadvertence







the documents could not be filed and the Company has no mala fide intention in not filing the same, etc.

2.3. The Appellant has filed along with the Appeal, copies of Annual Reports from the Financial Years 2010-11 to 2015-16; copies of Acknowledgements of Income Tax Returns for the Financial Years 2015-16 and 2016-17; copy of Bank Account Statement; Lists of Shareholders and Directors etc.

3. Upon issuance of notice, the ROC has filed Representation dated 26<sup>th</sup> 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, viz., Balance Sheets and other Returns since incorporation and therefore action was initiated and its name was struck off.

4. In pursuance of the order issuing notice, the Appellant have filed an Affidavit dated 23<sup>rd</sup> March, 2018 clarifying position of shell Company and unusual transaction during the demonetization period.

5. This Appeal is filed by the Member of the Company under Section 252 of the Companies Act and as such he is entitled to file the same for order of restoration of the name of the Company.

*Uthman*



Therefore, this Appeal is maintainable. The Company, M/s. Neon Life Care Private Limited, was struck off on 21<sup>st</sup> June, 2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 22<sup>nd</sup> February, 2018. Therefore, this Appeal is within time.

6. From the material available on record, the only reason for striking off the name of the Appellant Company M/s. Neon Life Care Private Limited, is that the Company has failed to file its statutory returns since its incorporation.

7. The materials on record also go to show that the Company is an ongoing concern and has been doing business. The Registered Office of the Company is situated at Plot No. 508, GIDC, Vatva, Ahmedabad, Gujarat.

8. 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. Neon Life Care Private Limited, in the Register of Companies maintained by the ROC, Gujarat, Ahmedabad; and to remove the defects of disqualification if any as Directors, imposed under Section 164(2) of the Companies Act, 2013; and accordingly there shall be directions. The Company's name shall be restored upon the 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:



**Manorama Kumari,  
Member (Judicial)**

Signature:



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

Rmr..