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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**T.P. No. 144/614/NCLT/AHM/2016 (New)
C.A. No. 160/614/CLB/MB/2016 (Old)**

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 13.10.2017**

Name of the Company: Sanket G. Prabhu
V/s.
Alteac Engineering Pvt. Ltd. & Ors.

Section of the Companies Act: Section 614 of the Companies Act, 1956

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

1.

2.

ORDER

None present for Petitioner. None present for Respondents.

Order pronounced in open Court. Vide Separate Sheets.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 13th day of October, 2017.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

**T.P. No. 144/614/NCLT/AHM/2016 (New)
C.A. No. 160/614/CLB/MB/2016 (Old)**

In the matter of:

Mr. Sanket Ganapathi Prabhu
(Ex-Director)
R/o. A-1, Manusmruti,
Daulat Nagar,
Santacruz (West),
Mumbai-400054

: Petitioner.

Versus

1. M/s. Altaec Engineering Private Ltd.,
Registered Office at Plot No.732,
40 Shed Area, GIDC,
Vapi-396195.

2. Mr. Nilesh Shivshankar Bhatt
C/o. Shri Shivshankar G. Bhatt,
Plot No. 637/1, Vatsal CHS Limited,
Gandhinagar-382006

3. Mrs. Alpa Nilesh Bhatt,
C/o. Shri Shivshankar G. Bhatt,
Plot No.637/1, Vatsal CHS Limited,
Gandhinagar-382006.

: Respondents.

Order delivered on 13th October, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).

Appearance:

Mr. Ramdas Naik, learned Advocate for the Petitioner.
None present for the Respondents.

ORDER

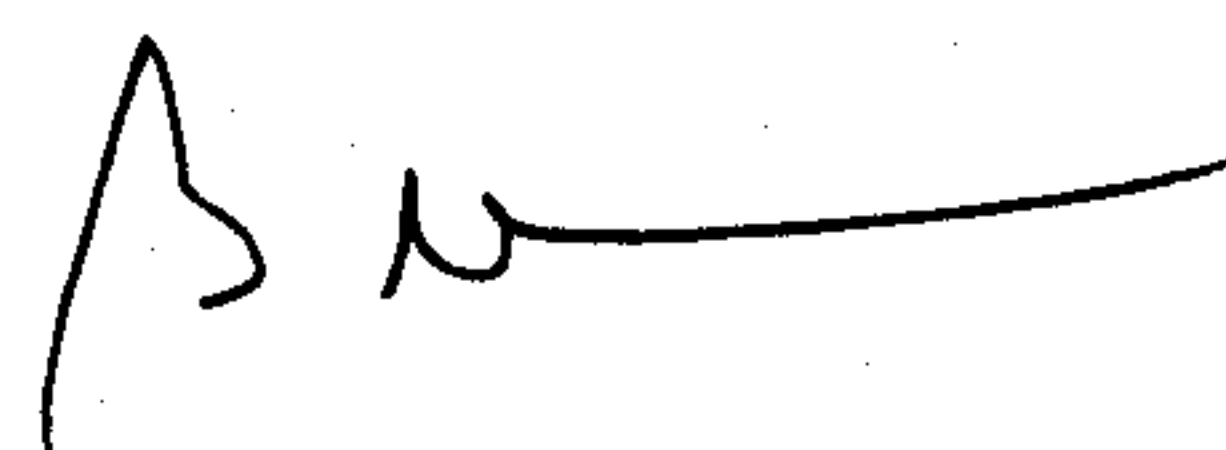
1. This Petition was originally filed before the Company Law Board, Mumbai under Section 614 of the Companies Act, 1956 with a prayer to direct the 1st Respondent to register the particulars of resignation of Petitioner as 'Director' in the records of Registrar of Companies, and to direct the Respondents No. 2 and 3 to comply with all the requirements as required in the process of filing the Form DIR-12 with the Registrar of Companies.

2. The facts of the case are as follows;

2.1. The Respondent No.1 Company was originally incorporated as 'Altaec Engineering Private Limited' on 29.9.2009 under the Companies Act, 1956. The Registered Office of the 1st Respondent Company is presently situated at Plot No. 732, 40 Shed Area, GIDC, Vapi, Gujarat State. The Authorised Share Capital of the Company is Rs. 75,00,000. The Subscribed and Paid-up Capital of the Company is Rs. 64,00,000, divided into 6,40,000 equity shares of Rs. 10 each. Respondents No. 2 and 3 are the present Directors of the 1st Respondent Company.

2.2. Petitioner was the Director of the 1st Respondent Company. He resigned as 'Director' of 1st Respondent Company by his letter dated 31.9.2014.

2.3. It is stated that in terms of Section 168(1) of the Companies Act, 2013, the particulars of resignation of the Director should be filed with the Registrar of Companies through Form DIR-12 by the Company within the period of 30 days from the effective date of resignation. The law also casts duty upon the Director resigning to file Form DIR-11 with the Registrar of Companies, but Respondent No.2 did not file Form DIR-12 with the Registrar of Companies. Petitioner got issued a legal notice to the Respondents.

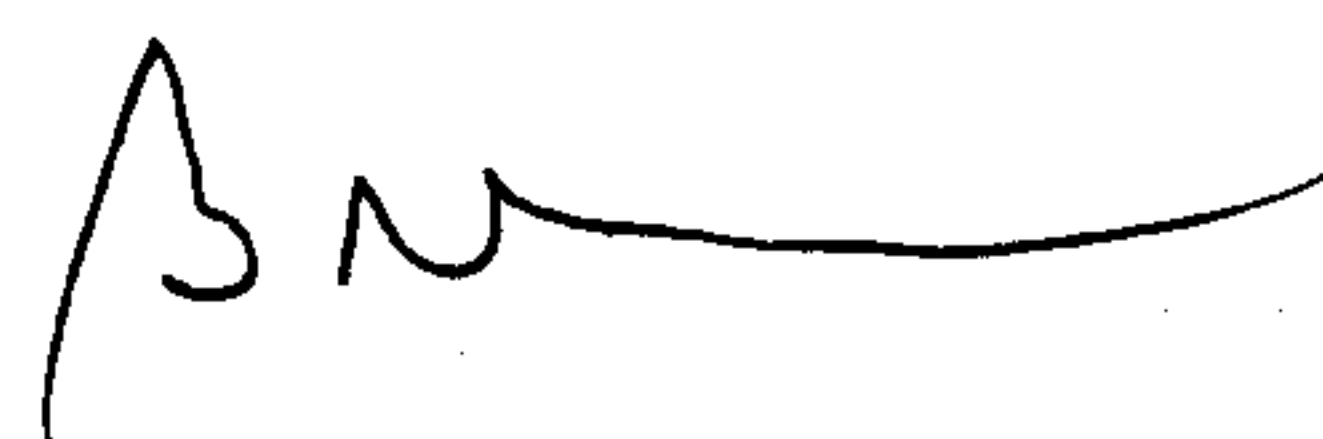


3. In this Petition, inspite of issuing several notices, Respondents did not choose to appear and file their Reply and hence it is treated that there is no Reply to file in this Petition.

4. The point for consideration is whether the Respondents can be directed to file Form DIR-12 relating to the resignation of the Petitioner as 'Director' with effect from 31.9.2014.

5. Even according to the Petitioner, he resigned as 'Director' by his letter dated 31.9.2014. Section 168 of the Companies Act, 2013, which deals with resignation of Director, came into force with effect from 1.4.2014. Sub-section (1) of Section 168 of the Companies Act enjoins upon the Company to intimate the Registrar about the fact of resignation of Directors within the time prescribed and the same shall be laid in the immediately following general meeting. This Petition is filed under Section 614 of the Companies Act, 1956. There is no provision corresponding to Section 614 and Section 614-A of the Companies Act, 1956 in Companies Act, 2013. Even according to Section 614 of the Companies Act, 1956, if the Company caused any default in complying with the provisions of the Act by not filing the required information with the Registrar of Companies on the application made by any Member or Creditor of the Company or by the Registrar to the Tribunal, the Tribunal may direct the Company or any officer thereof to make good the default within a specified time. Section 614 of the Companies Act, 1956 did not give any eligibility for a Director of the Company to seek relief under Section 614 of the Act. Petitioner was a Director of the Company. Even according to him, prior to 31.9.2014 Petitioner did not even allege that he was one of the shareholders of the 1st Respondent Company.

6. This Tribunal directed the Petitioner to file documents to show that the Petitioner is the shareholder of the Company. Thereupon the Petitioner filed Xerox copies of Share Certificates duly notarized by a Notary. Therefore, it can be said that the Petitioner is a Member of the Company. When there is no provision corresponding

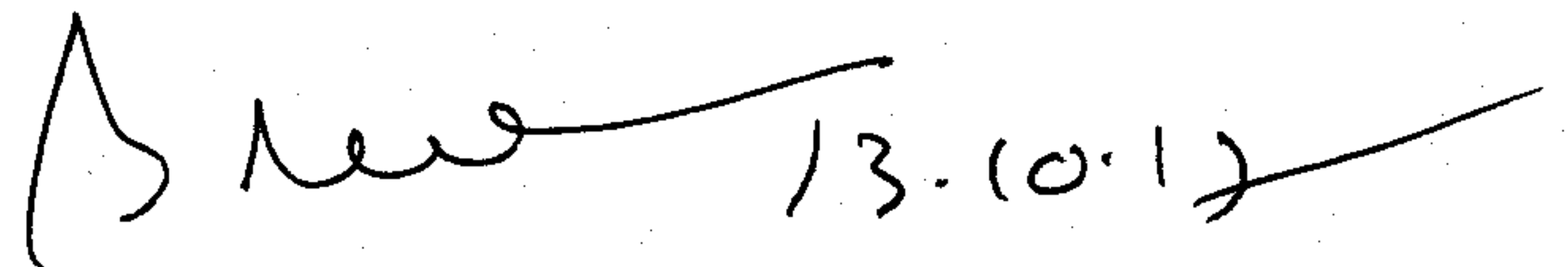


to Section 614 of the Companies Act, 1956, this Tribunal, invoking Section 614 of the Companies Act, 1956, can direct the Respondents to file Form DIR-12 with the Registrar of Companies relating to the resignation of the Petitioner as 'Director' with effect from 31.9.2014 within a period of 30 days from the date of service of this order. This will not absolve the petitioner from the liability for the offences if any committed by him during his tenure as director in view of proviso section 168 (2) of Companies Act, 2013.

7. The Petition is disposed of accordingly with the above directions.

8. The Petitioner shall serve a copy of this Order on the Respondents as well as on the Registrar of Companies.

Signature:



Sri Bikki Raveendra Babu, Member (J).

RMR