

43

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 35/252/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 08.12.2017**

Name of the Company: **Tejaskumar Bodawala**
(Cosmos Aircon Pvt Ltd)
V/s.
Registrar of Companies, Gujarat.

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

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
---------------------	--------------------------------------	---------------------------	------------------------------	-------------------------

1.

2.

ORDER

None present for Appellant. None present for ROC.

Order pronounced in open Court. Vide separate sheets.


MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 8th day of December, 2017.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 35/252/NCLT/AHM/2017

In the matter of:

Cosmos Aircon Private Limited
Through its Member,
Mr. Tejaskumar Bodawala,
Registered Office at
3,, Satyaguru Apartment,
Opp: Dayalji Ashram,
Majuragate,
Surat-395002

: Appellant.

Versus

Registrar of Companies,
Office of the Registrar of Companies
ROC Bhavan, Opp: Rupal Park,
Behind Ankur Bus Stand,
Naranpura,
Ahmedabad-380013
Gujarat State.

: Respondent.

Order delivered on 8th December, 2017.

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

Appearance:

Mr. Pavan Godiawala, learned Advocate with Ms. Tejal Shah,
learned PCS for the Appellant.

None present for ROC.



ORDER

1. This Appeal is filed by M/s. Cosmos Aircon Private Limited, through its Member, seeking restoration of its name in the Register of Companies maintained by the Registrar of Companies, Gujarat, ['ROC' for short].

2. It is stated in the Appeal that the Company, Cosmos Aircon Private Limited was incorporated on 13th January, 2011 as a Private Limited Company having CIN No. U29192GJ2011PTC063656, and has been carrying on business and operations till date.

3. The Appellant has stated that the Respondent ROC vide Public Notice dated 21st 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, Ahmedabad. According to the Appellant Company it has neither received the notice for default in filing Balance Sheet and/or Annual Returns nor received any notice under Section 248(1) of the Act before the Company's name was struck off. The said fact came to the knowledge of the Appellant, when the Appellant wanted to upload forms for the annual filing documents on the MCA Portal, wherein the status of the Company is shown "Strike Off". The Company has given the reasons for non-filing of Income Tax Returns and other relevant documents, such as lack of knowledge in the Company Law matters; Company not hired services of experts in the field due to inadvertence etc. As per the Appellant Company, it is a going concern and the livelihood of 15 families is dependent on the business of the Company.

4. The ROC filed Representation dated 28th November, 2017 through his Deputy Registrar of Companies, Gujarat, wherein he has denied the allegations made and contention raised in the Appeal, by stating that the Company failed to file any statutory returns, viz.,



Balance Sheets and other returns with the office of the ROC since its incorporation and hence its name was struck off.

5. The Appellant Company has filed copies of Balance Sheets and Profit and Loss Accounts for the years 2013-14 to 2014-16; and copies of acknowledgments for filing of Income Tax Returns for the financial years from 2013-14 to 2015-16.

6. This Appeal is filed by the Company under Section 252(1) of the Companies Act. The Company is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The Company, M/s. Cosmos Aircon Private Limited, was struck off on 21.6.2017 from the Register of Companies and the same was published in the Gazette of India. This Appeal was filed on 29th September, 2017. Therefore, this Appeal is within time.

7. From the material available on record, the only reason for striking off the name of the Appellant Company, M/s. Cosmos Aircon Private Limited is that it failed to file statutory returns such as Balance sheets and other Returns since incorporation.

8. The material on record also goes to show that the Company is an ongoing concern and has been doing business.

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, M/s. Cosmos Aircon Private Limited in the Register of Companies maintained by the ROC, Gujarat, and accordingly there shall be directions. The Company's name shall be restored upon the Appellant 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. 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.

10. The Appeal stands disposed of accordingly.

Signature:



Ms. Manorama Kumari, Member (J).

Rmr.