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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

Co. Appeal No. 60/252/NCLT/AHM/2017

Coram:

**Present: Hon'ble Ms. MANORAMA KUMARI
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 15.12.2017**

Name of the Company: Anupam Maheshwari.
(Rajlaxmi Developers Pvt Ltd)
V/s.
Registrar of Companies, Gwalior.

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>
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1.

2.

ORDER

None present for Appellant.

Order pronounced in open Court. Vide separate sheets.

Dated this the 15th day of December, 2017.


**MANORAMA KUMARI
MEMBER JUDICIAL**

**BEFORE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**

Co. Appeal No. 60/252/NCLT/AHM/2017

In the matter of:

M/s. Rajlaxmi Developers Private Limited,
Indore, M.P.

In the matter between:

Anupam Maheshwari
S/o. Shri Krishnakant Maheshwari
Member of Rajlaxmi Developers
Private Limited,
Registered Office at
48B, Vaishali Nagar,
Indore-452001 (MP).

: Appellant.

Versus

Registrar of Companies,
Madhya Pradesh (Gwalior)
III Floor, A Block,
Sanjay Complex,
Jayendraganj,
Gwalior-474009 M.P.

: Respondent.

Order delivered on 15th December, 2017.

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

Appearance:

Mr. Vijayesh Atre, learned Advocate for the Appellant.
None present for ROC.

ORDER

G. Kumar

1. This Appeal is filed by the Appellant, who is Member and Director of the Company, namely M/s. Rajlaxmi Developers Private Limited seeking restoration of its name in the Register of Companies maintained by the Registrar of Companies, Gwalior, Madhya Pradesh ['ROC' for short].

2. It is stated in the Appeal that the Company, M/s. Rajlaxmi Developers Private Limited was incorporated on 20th April, 2005 as a Private Limited Company by Shares having CIN No. U45203MP2005PTC017530, and its Registered Office is situated at 764, Vaishali Nagar, Indore. Madhya Pradesh-452001. According to the Appellant, the Company could not file the Financial Statements and Annual Returns on time for last three years due to oversight and some unavoidable reasons. It is further the case of the Appellants that the Company is closely held private limited company having two directors and five shareholders. holding entire share capital as Directors and Shareholders. According to the Appellant, the Company has unsecured loans of Rs. 43,97,170/-; trade payables of Rs. 30,24,380/-; and other current liabilities of Rs. 1,62,00,450/- as on 31st March, 2016.

3. The Appellant has stated that the Respondent ROC vide letter No. ROC-G/U/S248(1) dated 10th March, 2017 issued show cause notice under sub-section (1) and (2) of Section 248 of the Companies Act, 2013 to the Company to show cause why its name be not removed from the Register of Companies and directed to send representation within 30 days of the receipt of the notice.

3.1. The Company vide reply letter dated 4th April, 2017 informed the Respondent ROC that the Company is a going concern; not a dormant Company; due to human error the financial statements and annual returns could not be filed for last three preceding financial years. Thereafter, when the Company approached the Portal of the Ministry of Corporate Affairs for filing the pending documents the status of the Company was shown as



"Strike off". Thereafter, the Company vide letter dated 3rd July, 2017 addressed to the Respondent ROC, submitted the audited balance sheets for the previous years and requested the ROC to remove the strike-off status. According to the Company the Respondent ROC without ascertaining whether the Company is carrying on its business or not before striking off the Company, issued Public Notice in Form No. STK-5 for striking off and published the same in the Official Gazette on April 8, 2017. Thereafter, the Company was struck off from the Register of Companies, vide Public Notice in Form No. STK-7 on 14th June, 2017 with effect from 26th May, 2017.

4. It appears from the Record that though copy of the Appeal was served on the Respondent ROC on 20th November, 2017, the ROC has not filed any reply to the Appeal.

5. The Appellant filed copy of the Audited Balance Sheet as on 31st March, 2014, 2015, 2016, and 2017 confirming the share capital structure along with Auditors' Report; Copies of Income Tax Return Acknowledgments for the assessment years 2014-15, 2015-16; 2016-17; and 2017-18; list of shareholders and Directors of the Company; and other documents along with this Appeal and the Affidavit.

6. This Appeal is filed by the Company under Section 252(3) of the Companies Act. The Director of the Company is entitled to file Appeal seeking restoration of the name of the Company. Therefore, this Appeal is maintainable. The name of the Company, M/s. Rajlaxmi Developers Private Limited was struck off on 14th June, 2017 with effect from 26th May, 2017 from the Register of Companies. This Appeal was filed on 8th November, 2017. Therefore, this Appeal is within time.

7. From the material available on record, it appears that the only reason for striking off the name of the Appellant Company, is



that it failed to file statutory Annual Return and Balance Sheet for the last three preceding financial years.

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. Rajlaxmi Developers Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh, 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.

11. The Appeal stands disposed of accordingly.

Signature:



Ms. Manorama Kumari, Member (J).

Rmr.