

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. 24/441/NCLT/AHM/2017

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 05.04.2017**

Name of the Company: Amit Shah

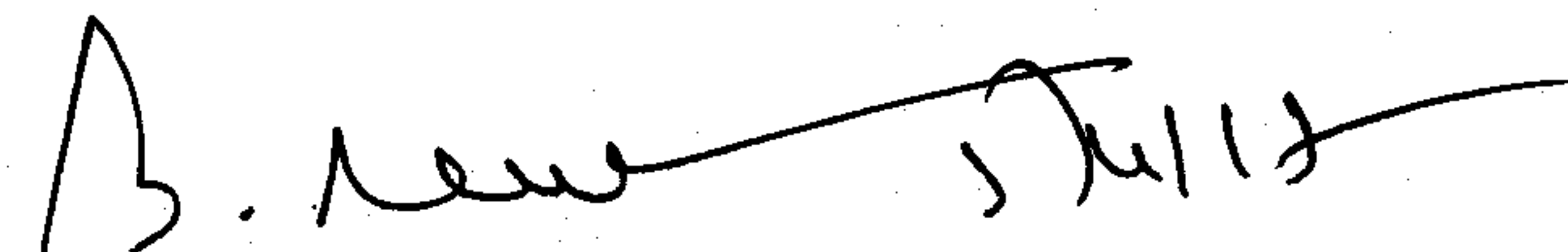
Section of the Companies Act: Section 441 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Navin Pahwa	Adv.	Petitioner	Natasha
2.				

ORDER

Learned Advocate Mr. Navin Pahwa with learned Advocate Ms. Natasha Sutaria present for petitioner.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 5th day of April, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. 24/441/NCLT/AHM/2017

CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

Date: 5th April, 2017

In the matter of:

Mr. Amit Jayantilal Shah
Director (DIN 02450422)
of M/s. GTPL Anjali Cable
Network Private Limited,
Residing at Shriji Krupa,
Desai Sheri, Ghadiali Pole,
Vadodara-390012

: Petitioner.

Appearance:

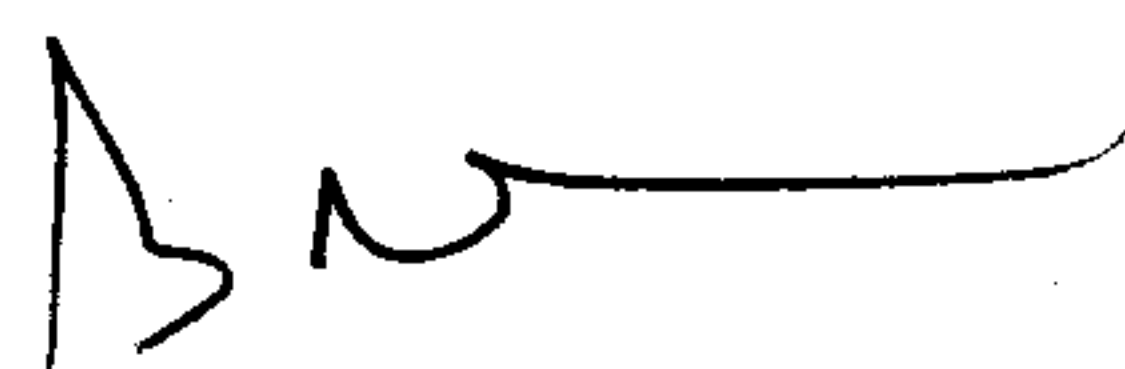
Mr. Navin Pahwa with Ms. Natasha Sutaria for M/s. Thakkar & Pahwa, Learned Advocates for the Petitioners.

FINAL ORDER

Pronounced on 5th day of April, 2017

1. This Petition is filed by the Director of M/s. GTPL Anjali Cable Network Private Limited under Section 441 of the Companies Act, 2013, for compounding of violation of Section 165 of the Companies Act, 2013. Section 165 of the Companies Act, which came into force on 1.4.2014 says that, no person after the commencement of the Act shall hold office as a Director, including any alternate directorship, in more than twenty companies at the same time with a Proviso that the maximum number of Public Companies in which a person can be appointed as Director shall not exceed ten.

2. Sub-section (3) of Section 165 of the Companies Act, 2013 says that any person holding Office as Director in companies more than the limits prescribed in sub-section (1) of Section 165



immediately before the commencement of this Act shall within a period of one year from such commencement, choose not more than the specified limit of those companies in which he wishes to continue to hold the office of Director; and he shall resign his office as Director in the other remaining companies; and the same shall be reported to the Registrar of Companies having jurisdiction in respect of each such Company.


3. Sub-section (6) of Section 165 provides sentence of fine which shall not be less than five thousand rupees but it may extend to twenty five thousand rupees for every day after the first during which the contravention continues.

4. In the Petition, it is clearly stated that from 1.4.2015 up to 26.08.2016 Petitioner had held the Office of Director in more than ten Public Companies. It is also clearly stated in the Petition that Petitioner was holding the post of Director in more number of Companies than the prescribed limit for 514 days after the expiry of one year from the commencement of the Act.

5. It is stated in the Petition that no one will be prejudiced by compounding of offence and no public interest would suffer.

6. Registrar of Companies, in his Report stated that the date of offence is 07.10.2016. The period of default is 514 days. The violation is of Section 165 of the Companies Act. The period of default is from 01.4.2015 to 26.8.2016.

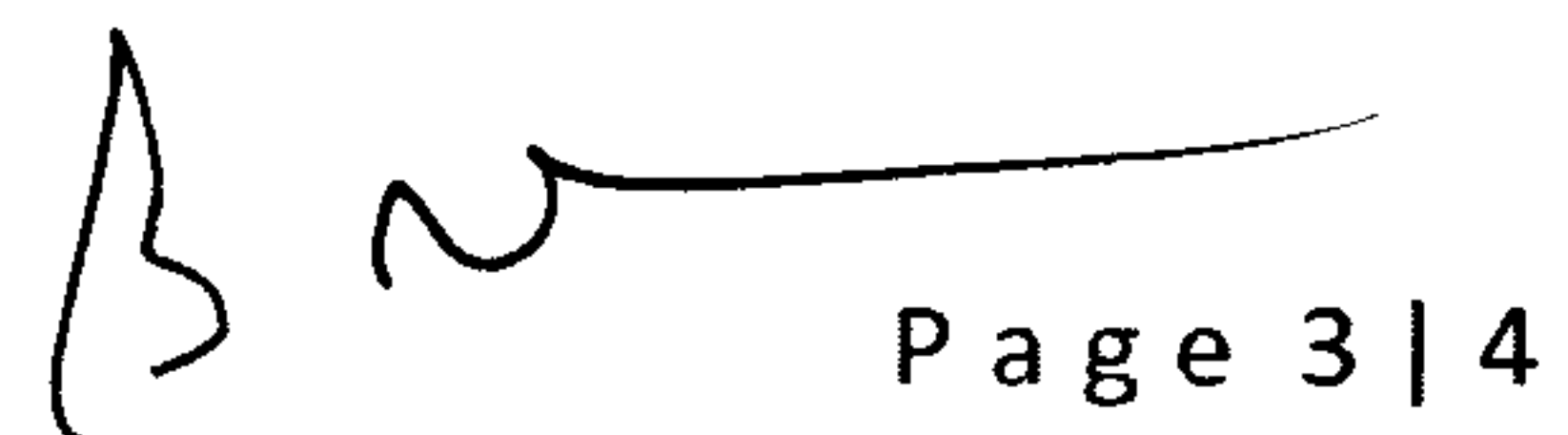
7. Learned Counsel appearing for the Petitioner submitted that Petitioner not knowing about the new provision made in the Companies Act, 2013 continued to be a Director in more than the prescribed number of companies even after Companies Act, 2013 came into force and as soon as he came to know about the limit laid down in Section 165 of the Companies Act he has resigned and therefore requested this Tribunal to take a lenient view.



8. He has also relied upon a decision dated 27.02.2017 rendered by the Hon'ble Member (Judicial) of the Company Law Tribunal, Mumbai Bench in the case of **M/s. Hathway Nashik Cable Network Private Limited and its Directors**. It relates to violation of Section 162 of the Companies Act, 1956. It provides punishment which may extend to five hundred rupees per day. In that case, the period of delay was 1019 days. The Learned Member imposed compounding amount of Rs. 2,000/-.

9. In the case on hand, the violation is under Section 165 of the Companies Act, 2013 and its sub-section (6) provides sentence of fine which shall not be less than five thousand rupees but it may extend to twenty five thousand rupees for every day after the first during which the contravention continues. Moreover, the imposition of compensation amount is the discretionary act. It depends upon the facts and circumstances of each case. Simply because one Hon'ble Member imposed certain compensation amount, the same need not be followed by other Members since it is not a laying down of law. However, the discretion has to be exercised by this Tribunal taking into consideration the nature of violation; the subsequent compliance of violation; the punishment provided for the violation; the financial condition of the Company and its Officer, etc. Moreover, minimum sentence of fine has been prescribed in this case. Therefore, taking into consideration the over all facts and circumstances of the case, this Tribunal is of the considered view that the Petitioner can be directed to pay compensation amount of Rs. 5000/- per day for the default period of 514 days, the total of which comes to Rs. 25,70,000/- [514 Days x Rs.5000 per day].


10. Considering all the aforesaid aspects, this Tribunal is passing the following order;


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Violation of Section 165 of the Companies Act, 2013, committed by the petitioner is compounded on payment of Rs. 25,70,000/- (Twenty Five Lakhs Seventy Thousand) for overall delay of 514 days at the rate of Rs.5000/- per day. The Petitioner shall pay the sum of Rs. 25,70,000/- by way of Demand Draft drawn on Nationalised Bank in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai, within three weeks from the date of this order and file the original Demand Draft before the Registry of this Tribunal on or before 15.05.2017.

11. In case the petitioner fails to pay the amount as ordered above, the Registrar of Companies shall take appropriate action including prosecution of the petitioner as per applicable law under intimation to this Tribunal forthwith.

12. Petition is disposed of accordingly. Send copy of this order to the petitioner for compliance, and Registrar of Companies, Gujarat, Ahmedabad for reporting compliance of the order by the petitioners. List the matter on 25.05.2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

*Pronounced by me in open court on this
the 05th day of April, 2017.*

RmR.