

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

Rst. A. No.3/2017 in T.C.P. No.28/2011

Under Sections 111 of the Companies  
Act, 1956.

In the matter of  
Sakharam Krishna Lele  
601, Swati Society, Off. Aarey Road,  
Goregaon (E)  
Mumbai – 400 066.

..... Petitioner

v/s.

Bombay Alums Pvt. Ltd.  
L-38, MIDC, Opp. Galaxy M-3,  
Vadilal Naka, Tarapur,  
Boiser, Maharashtra – 401 506  
..... Respondent (R1)

Mrs. Tilottama V. Lele &  
Mr. Amit Vijay Lele  
B-6, Ajanta Bldg., 1<sup>st</sup> Floor,  
Udhar CHS, S.V. Road, Goregaon (W)  
Mumbai – 400 062.  
..... Respondent (R2&R3)

Judgment delivered on: 14.08.2017

Coram:

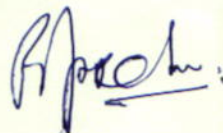
Hon'ble M.K. Shrawat, Member (Judicial)  
Hon'ble Mr. Bhaskara Pantula Mohan, Member (Judicial)

For the Petitioner : Mailaqua Mir, Advocate  
For the Respondent : Cathrine Fernandes, Adv. i/b Deven Dwarkadas & Partners.

*Per Bhaskara Pantula Mohan, Member (J)*

**ORDER**

This is an application wherein the Applicant seeks indulgence of the Tribunal to restore the petition back on to the file as the same was dismissed on 20.06.2017 for want of prosecution in as much as the Counsel appearing on behalf of the Applicant had reached the Court after matter is called out. It is stated in the application that on 20.06.2017 the matter was actually listed. It is also further stated that the Applicant had engaged in the services of the Counsel on record from 16.11.2016 and there was subsequently one of the



directors of the Company Mr. Sakharam Lele, the father of the Petitioner herein as well as father-in-law and the grandfather of the R2 and R3 respectively, demised. Subsequently, an application for deletion of name of the said late Sakharam Lele and for amendment of the Petition was allowed by this Tribunal on 13.01.2017 and the necessary amendment was carried out by the Counsel on 31.01.2017.

2. Thereafter, the matter was listed on 13.02.2017 and the Jr. Counsel for some reasons could not attend the Court. However, this Tribunal was pleased to adjourn the matter to the next date. On account of the absence/non appearance of the Jr. Counsel the next date of hearing could not be intimated to the Applicant and further on account of some miscommunication and as there were number of matters pending between the Applicant and Respondents in the State of Maharashtra, the Applicant could not contact the Jr. Counsel for the date. It is also further stated in the application that the Applicant had contacted the Jr. Counsel, one Ms. Khushbu Dhakan, on 20.03.2017 and it was intimated that she was on some study leave for some exam and shall not be attending the office of her senior i.e. the present Counsel for the Applicant. The Applicant further stated that as he was engrossed in other litigation for and on behalf of the Company he could contact the Counsel on record only during May 2017 when the Hon'ble Court was closed for summer vacation.

3. Subsequently, when the Counsel visited the Registry of this Hon'ble Tribunal, he could note down the date of hearing as 20.06.2017. The Applicant further stated, as the Counsel had urgent mentioning before the Hon'ble High Court as well as matters high on board before the Hon'ble Division Bench of the Hon'ble High Court, the Counsel reached the Tribunal only at 11.45 a.m. and by that time the matter was already called and dismissed for want of prosecution. Thereafter, the Applicant immediately filed this Restoration Petition.

4. From the record it is seen that this Tribunal had accommodated the Applicant on many occasions eventhough there was no representation. Further, as it could be seen from the record that the matter appears to be important between the parties as it involves important questions of law and facts. Eventhough this Bench is of the opinion that the Applicant had not paid proper attention to the case by timely following up with the Counsel on

record, only to meet the ends of justice, the Petition is restored back to file.  
Application allowed as prayed for.

5. The next date of hearing is on 20.09.2017.

Sd/-

**Bhaskara Pantula Mohan**  
**Member (Judicial)**

Sd/-

**M.K. Shrawat**  
**Member (Judicial)**