

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

IA No.07/2017 in
TC.P. NO. 1123/I&BP/NCLT/MAH/2017

Under Section 9 of the I&B Code, 2016

In the matter of
Reliance Mediaworks Ltd.
Petitioner

v.

Rashtiya Metal Ind. Ltd. Respondent

Order delivered on: 20.09.2017

Coram: Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Mr. V. Nallasenapathy, Member (Technical)

For the Petitioner: Mr. Sujeet Kurup, Advocate for Petitioner

For the Respondent: Mr. None present.

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

On this Application filed by the petitioner for restoration of this Company Petition dismissed on 4.7.2017 for default, the petitioner counsel submits that he lodged Company Petition on 20.6.2017, thereafter his clerk started inquiring about movement of the Company Petition but his clerk could not get correct information as to what date case was posted. He further submits that the clerk was later informed that the case would appear on the Board before this Bench. On hearing

THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

IA No.07/2017 in
CP No. 1123/ I&BP/NCLT/MB/MAH/2017

such information, this Petitioner says that his Clerk was under assumption that the date would be given sometime thereafter. The Petitioner counsel further says that since he was not aware of the name and number of the Company Petition, he could not appear before this Bench without the date on which matter was listed. To his surprise, later he came to know that this matter came for hearing on 4.7.2017 and the same was dismissed for default without providing any opportunity for the Petitioner for hearing. The clerk of the Advocate visited NCLT office and inquired on 19.7.2017, then it was informed that the matter was listed on 4.7.2017 and the same was dismissed for default. Since his case was dismissed for default without date of hearing being notified to the Petitioner herein, this Petitioner filed this Restoration Application u/s.48 of the NCLT Rules.

2. On hearing the submissions of the Petitioner Counsel, it appears that the Petitioner Counsel tried to give impression before this Bench that he was not aware of posting of this matter for hearing thereby the Counsel could not appear before this Bench when this matter came for hearing on 27.6.2017. This date of hearing was reflected in the Cause-list dated 27.6.2017. Even though petitioner was absent, this petition was not dismissed on 27.6.2017 indeed another date i.e., 4.7.2017 was given hoping that the Petitioner would appear on the following date for hearing. We must notify this matter was reflected in the cause list of NCLT website on 27.6.2017 as well as on 4.7.2017.

3. Thereafter, on 4.7.2017, when the Petitioner did not appear to the First Call given by this Bench, this Petition was kept back hoping that the Petitioner would appear sometime later, but whereas since the Petitioner was not present even after list was over, this Bench again calling this matter, dismissed the Petition for default.

THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

IA No.07/2017 in
CP No. 1123/ I&BP/NCLT/MB/MAH/2017

4. Since the Petitioner itself filed this case before this Bench, the Petitioner or its Counsel is duty bound to find out date of hearing, he can't say that date of hearing was not independently notified to the petitioner side, the date of hearing was indeed notified in the website of NCLT, this is how it happens in each and every case. Here, in this case posting of this matter was done twice, on 27.6.2017, thereafter on 4.7.2017, on both the occasions, the petitioner side was absent. Finally, when the petitioner was absent on 4.7.2017 for second call also, the petition was dismissed for default.

5. This was filed on 20.6.2017, it was dismissed on 4.7.2017. It is a fact that any petition under IB Code will come for hearing within four five days from the date of filing, since petition has to be heard and decided within 14 days, it would be obviously in the notice of the counsel filing petition that it would come for hearing within 14 days. It remained pending before this Bench for almost 15days, despite remaining so, the petitioner counsel did not turn up.

6. Therefore, we don't find any reason to restore this company petition, accordingly this application is dismissed.

Order pronounced on 13.9.2017 and delivered on 20.9.2017

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)