

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

T.C.P No. 187/(MAH)/2017
Rest. A. No. 09/2017

CORAM:

Present: SHRI M.K. SHRAWAT
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 18.09.2017

NAME OF THE PARTIES: Manhar Trading Corporation
V/s.
Rajdeep Steel products Pvt. Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
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ORDER

TCP 187/I&BC/NCLT/MB/MAH/2017

1. The Applicant has moved a Restoration Application (RA No.09 of 2017) in TCP No.187/MAH/2017 wherein it is stated that on the date when the hearing was fixed, the Learned Advocate of the Petitioner was suffering from viral fever hence could not attend the hearing. It is pleaded that under Rule 48(2) of NCLT Rules, the Tribunal is empowered to recall an Order if dismissed for a default of non-appearance and if there is sufficient cause for such default.
2. Matter heard. The admitted factual position is that a Petition was filed before the Hon'ble High Court for a claim of outstanding Debt of Rs.3,33,905/- under the old

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provisions of the Companies Act, 1956 under section 433(e) which was transferred to NCLT as per the Notification issued by the Ministry of Corporate Affairs.

3. Pursuant to the Petition transferred to NCLT, Mumbai, the Petitioner was required to submit the requisite Form either under section 7 or under section 9 of the Insolvency & Bankruptcy Code on or before 15th July, 2017, vide Notification dated 29.06.2017 [F.NO. 1/5/2016-CL-V/(GSR 732(E)). However, no such Form was submitted on or before the said date. In that situation an Order was passed on 02.08.2017 through which the Petition was dismissed. However, vide Para 5 it was pronounced as under:-

"Though number of opportunities were given to the petitioner to appear but the petitioner is not serious in pursuing this petition.

As a consequence the petition is liable to be rejected, however, worth to reproduce a paragraph from the latest notification dated 29.06.2017 (F. No. 1/0/2015-CL-V) GSR 732(E) as under :-

"Provided further that any party or parties to the petitions shall, after the 15th day of July, 2017, be eligible to file fresh applications under sections 7 or 8 or 9 of the Code, as the case may be, in accordance with the provisions of the Code."

4. In a situation when the "liberty" has already been granted vide the above mentioned Order dated 02.08.2017 that the Petitioner is eligible to file fresh Application under the Insolvency & Bankruptcy Code, hence this Petitioner can avail the opportunity already granted, if deemed fit and hence no prejudice is going to cause in that situation.
5. As a result, when a liberty had already been granted as discussed *supra*, therefore, there is no requirement of law to restore the impugned Order. The Restoration Application is, therefore, dismissed subject to the discussion made hereinabove.

Sd/-

BHASKARA PANTULA MOHAN

Member (Judicial)

Date : 18.09.2017

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Sd/-

M.K. SHRAWAT

Member (Judicial)