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NATIONAL COMPANY LAW TRIBUNAL
DIVISIONAL BENCH
CHENNAI

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 09/03/2017 AT 10.30 AM**

**PRESENT: SHRI K. ANANTHA PADMANABHA SWAMY, MEMBER-JUDICIAL
SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL**

APPLICATION NUMBER : CA/37 & 38/ 2016
PETITION NUMBER : IN
: CP/31/2014

NAME OF THE PETITIONER(S) : T. Shanmugam

NAME OF THE RESPONDENT(S) : Fabrichem (Trichy) Pvt Ltd & 2 Others

UNDER SECTION : 397/398 & 402

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	
	<u>K. SENTHILKUMAR</u>	counsel for Petitioner	<u>K. Senthil Kumar</u> 9/3/17
	<u>K. RAVI</u>	counsel for Respondent ORDER	<u>K. Ravi</u> 9/3/2017

Counsel for Applicant present. He has filed an application for setting aside the *ex parte* order dated 19.04.2016 dismissing the company petition in default. The application has been filed on 04.10.2016. In the application, it has been averred that on the date of hearings, he was ill and suffering from weakness, high blood pressure and high sugar as well and therefore, it was not possible for him to participate in the proceedings. For these reasons, he prayed to set aside the order passed dismissing the company petition in default. The applicant has also filed an application for condonation of delay of 137 days for filing the application for restoration. But, there is no medical certificate or any other proof filed to satisfy this Tribunal that the petition has been made on genuine grounds. The counsel for non-applicant/respondent filed counter to the application filed for restoration of the company petition. He has elaborately dealt with the reasons that have been given by the applicant in his application. The counsel for respondents has made submissions that there are deliberate

attempts of non-appearance and delay on the part of the petitioner though he happens to be the director of R1 company. He further stated that the petitioner is not in a position to offer sufficient cause for his non-appearance and there is prolonged delay i.e. 137 days, which has not been explained, so the application is liable to be dismissed. Heard both of the sides, perused the application of the applicant and the objection raised on it by the other side. The application is not indicating any sufficient cause for restoration of the company petition and there is no reasonable explanation for condonation of delay of 137 days, therefore the application is rejected and dismissed.


(Ch. Md. Sharief Tariq)
Member (Judicial)


(K. Anantha Padmanabha Swamy)
Member (Judicial)