

**IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI
COURT NO.III**

CA(CAA)-65(ND)/2017

IN THE MATTER OF:

M/s. Jak Builders (P) Limited

.....PETITIONER

Vs.

M/s. Jak Group (P) Ltd.

.... RESPONDENT

SECTION :

Under Section 230-232

Order delivered on 20.7.2017

Coram :

**R. VARADHARAJAN,
Hon'ble Member (Judicial)**

For the Petitioner/applicant : Mr. Sanjeev Kumar, Advocate
: Mr. Prabhakar Kumar, Advocate
For the Respondent : -

ORDER

This is an application which has been filed by the applicant seeking to set aside the order dated 03.7.2017 passed by this Tribunal and for the restoration of the petition/Application in CP No.CA-(CAA)- 65(ND)/2017.

The main Company Application in CA-(CAA)-65(ND)/2017 was dismissed for non-prosecution by this Tribunal on 03.7.2017 after an opportunity being provided for the appearance of the petitioner earlier on 29.06.2017 as well, when the matter was listed. However, on both the dates i.e. 29.6.2017 & 03.7.2017, none appeared for the Applicant/Petitioner to prosecute the Petition in CA-(CAA)-65(ND)/17, this Tribunal was hence constrained to dismiss the petition for non-prosecution.



Contd -

Presently, it is seen from the application filed by the applicant on 12.7.2017 that the Counsel for the applicant, due to certain confusion as to the date of listing, was not in a position to attend the proceedings before this Tribunal on 03.7.2017 and thereby seeking for restoration supported by an affidavit filed by the Counsel himself.

However, the reasons attributed by the Counsel for the applicant is not convincing in as much as having filed the application/petition, it is for the Counsel to follow the listing of cases diligently and it is not for the Registry to intimate about the same. Since the main Company Application relates to the approval of the Scheme of Amalgamation, the restoration of which will not affect any party but on the other hand, will cause great prejudice to the Companies involved in the Scheme as well as its Shareholders & Creditors, this Tribunal is of the view that the application in CA No.08/C-III/ND/17, as prayed for, should be granted and that the order dated 03.7.2017 be set aside and that the Application in CA-(CAA)-65(ND)/17 be restored on to the file at the stage at which it was dismissed, however, subject to a cost in a sum of Rs.5,000/- to be paid by the petitioner to the Prime Minister's National Relief Fund within a period of one week from today (20.7.2017). The main application is posted for hearing on 03.8.2017.

List on 03.8.2017.

- sd -

(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Surjit
20.7.2017