



One Crore Ten Lakh Only) from the Financial Creditor. However, Modesto, due to the precarious financial conditions was unable to repay the said amount to the Financial Creditor. Modesto, in April 2021, approached the \_Corporate Debtor inter alia requesting the Corporate Debtor to take over the said loan of Rs. 1,10,00,000/- (Rupees One Crore Ten Lakh Only) and repay the same to the Financial Creditor within a period of 6 months along with 18% interest thereon.

5) It is further submitted that the Company Petition bearing CP (IB) No. 569 of 2023, was listed on Board on 12.12.2023, on which date, the Company Petition was dismissed for want of prosecution. The Order dt. 12.12.2023, is quoted below for the convenience.

- 1) *“None present for either side, when the matter is called out.*
- 2) *Record reveals that the matter was listed on Board on 11.07.2023, on which date, none was present for either side, and the Bench directed the Registry to issue Notice to the Respondent/s, intimating the next date of hearing and to place on record Compliance Report well before the adjourned date. Further, Respondent was also granted liberty to place on record Affidavit in Reply within a period of two weeks’ from today by duly serving copies to the other side well in advance, and the matter was adjourned to 05.09.2023.*
- 3) *Thereafter, on 05.09.2023, Bench passed the order directing the Petitioner to appear on the next date of hearing, and also made it clear that failure in presence, the Bench shall pass consequential orders. Thereafter, on 13.10.2023, none was present for either side and the matter was adjourned to 21.11.2023.*

- 4) *On 21.11.2023, after noting the repeated non-appearance, the Bench directed the Registry to list the matter under the caption “either for Appearance or for passing dismissal order”. Today, the matter is listed on Board today either for Appearance or for passing dismissal order.*
- 5) *Even after clear and categorical directions from this Bench and even after granting various opportunities to the Petitioner to advance their submissions, the Petitioner chose not to appear before the Bench today and prosecute their matter further.*
- 6) *The Continuance absence on the part of the Petitioner further strengthens the belief of this Bench that the Petitioner either have settled the matter with the Personal Guarantor of the Corporate Debtor or is no more inclined to prosecute their grievance/issue further in the present matter.*
- 7) *In that view of the matter, the present Company Petition bearing CP (IB) No. 569 of 2023, is disposed of for want of prosecution. Resultantly, all the pending Applications, if any, arising out of the present Company Petition, stand closed, in view of disposal of the main Company Petition.*
- 8) *There would however be no order as to costs. File be consigned to record. Ordered Accordingly.”.*

6) However, it is also submitted that due to medical treatment of the authorised representative for 5 months was unable to appear for hearing.

7) Hence the present Interlocutory Application has been filed for restoration of the Company Petition bearing CP (IB) No. 569 of 2023.

8) Having considered the submissions and also taking note of the facts and circumstances, this Bench deems it fit and appropriate to allow the present Application. Accordingly, this Bench allows the present Restoration

Application bearing No. 29 of 2024, thereby restoring the main Company Petition.

- 9) It is to be noted that the main Company Petition bearing **CP (IB) No. 569 of 2023**, is now being ordered to be restored on the file of **Court Room No. 1, National Company Law Tribunal, Mumbai Bench**; hence, Registry shall expedite all the necessary steps regarding restoration of the said Company Petition.
- 10) Petitioner/Applicant herein is directed to issue Notice to the Respondent/Corporate Debtor by all available means (i.e. Speed Post, E-mail, etc.), thereby intimating them about the restoration of the Company Petition bearing CP (IB) No. 569 of 2023, and to place on record Affidavit of Service well before the adjourned date.
- 11) Needless to say, Respondent/Corporate Debtor shall file and place on record Affidavit in Reply well before the adjourned date by duly serving a copy to the other side well in advance.
- 12) With the aforesaid observations and directions, the Restoration Application bearing **RA No. 29 of 2024**, is disposed of as Allowed.
- 13) There will, however, be no order as to costs. Ordered Accordingly.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT**  
**MEMBER (JUDICIAL)**