

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 08

RST.A (IBC)/14/2024 IN C.P. (IB)/4779(MB)2018

CORAM:

SH. PRABHAT KUMAR

JUSTICE V.G. BISHT (Retd.)

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **27.03.2024**

NAME OF THE PARTIES: **CA PRAKASH AGRAWAL**

VS

JUST IN TIME TRADING PVT LTD

Section 9 Rule 11 of NCLT, 2016

ORDER

1. Adv. Kunal Kanungo a/w Adv. Gurgaprasad Halwai a/w Adv. Alok Pandey for the Petitioner are present. Adv. Amit Shroff a/w Adv. Vijay Mulchandani for the Respondent present.

RST.A (IBC)/14/2024.

- a. That this Tribunal may be pleased to allow the present Restoration Application under rule 11 of the National Company Law Tribunal Rules, 2016 and restore captioned Company Petition bearing number 4779 of 2018 to file for hearing and adjudication;
- b. That this Tribunal may be pleased to pass appropriate orders and/or directions to restore captioned company petition to file and fix a date for final hearing;
- c. That this Tribunal may be pleased to pass appropriate orders and/or directions under rule 11 of the National Company Law Tribunal Rules, 2016 to set aside

order dated 31st July 2023 and pass appropriate orders for restoration of the captioned company petition;

- d. That this Tribunal may be pleased to pass any other orders and/ or directions as deemed fit and necessary by this Hon'ble Tribunal in the interest of justice and equity.
 - e. That this Hon'ble Tribunal may be pleased to condone the delay if any filing the present application.
 - f. Cost of this application be provided for.
 - g. for such further and other relief as the nature and circumstances of the case may require.
2. This Bench had dismissed this Petition that for want of prosecution vide order dated 31.07.2023 recording the following –

None appeared for the Operational Creditor not only today but also on 26.07.2023. On perusal of the record, it is revealed that despite of affording various opportunities and listing the matter on Board for several times, the Operational Creditor did not appear before this Bench. From the continuous absence on the part of the Operational Creditor, this Bench observed that the Operational Creditor is no more interested to prosecute the matter further. Hence, the Company Petition is dismissed for non-prosecution.

3. On perusal of daily order file, we find that this matter was taken up due to paucity of time on last 7 occasions. However, we have note that on 27.08.2019, this matter was heard, and the parties were directed to file written submission which they did as recorded in the order dated 03.09.2019.

4. In view thereof, we consider it appropriate to allow the present application and restore the Company Petition No.4779/2018. The Registry is directed to restore the Company Petition and listed as restore Company Petition. Registry is also directed to issue notice of the restore Company Petition to both the parties. Registry

is directed to re number the Restored Petition and list it such renumbered petition.

Thereupon, the earlier Company Petition be closed in records.

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PRABHAT KUMAR
MEMBER (TECHNICAL)

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JUSTICE V.G. BISHT
MEMBER (JUDICIAL)

Rehan Shaikh