

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 2047 of 2025

(Arising out of Order dated 09.10.2025 passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi, Bench - IV) in New Restoration Application/95/ND/2025 in IB/2689/ND/2019)

IN THE MATTER OF

Icatalyst Wealth Advisors Pvt. Ltd.

...Appellant

Having its registered office at:
C-4, Sector-44, Noida, U.P.-201301

Versus

Sir John Bakeries India Pvt. Ltd.

...Respondent

(Formerly Known as M/s Sir John Foods)

Having Registered Office At:

Shop No. 19,
Ground Floor, CSC-2, Zone E-13,
DDA Central Market, I.P. Extension,
Patparganj, East Delhi,
Delhi-110092

Corporate Office At:

G-228, Sector-63, Noida,
Gautam Budh Nagar, U.P.-201301

Present:

**For Appellant : Mr. Shubham Sharma and Ms. Kirti Gupta
Advocates**

For Respondent :

JUDGEMENT

Per Justice Sharad Kumar Sharma, Member (Judicial)

The brief facts are, that the appellant was an applicant to the proceedings under Section 7 of I&B Code which was drawn as against the respondent/

corporate debtor. Those proceedings were registered before NCLT as CP(IB) 2689/ND/2019. Owing to the absence of the learned Counsel of the appellant, the company petition was dismissed for want of prosecution by an Order that, was passed on 17.03.2025.

2. Seeking its recall, a restoration application was preferred by the appellant by filing the same before the Registry on 15.09.2025 contending thereof that, the reasons for non-appearance on the date, has been that, since a wrong timing had been noted of sitting of the Bench and because of the fact that, the matter was shown to be listed before the Bench at 02.30 p.m. but, however, on 17.03.2025, the Bench assembled much earlier at 10.30 a.m. Hence the case skipped attention of the Counsel. It is because of which, the advocate could not appear when the matter was called and the same was dismissed for want of prosecution.

3. Seeking its recall, a restoration application was preferred by the appellant by filing the same on 15.09.2025, praying to recall the Order dated 17.03.2025 and to restore the company petition to its original number. The reason that was attributed therein was that the absence of 17.03.2025 was on account of the Counsel's failure to appear and the absence was not deliberate or intentional. It is this application which came up for consideration before the learned Tribunal and has been rejected by the impugned order dated 09.10.2025.

4. The learned Tribunal took the view that, since the application for restoration has been preferred under Rule 11 to be read with Rule 48 of the NCLT Rules, 2016, the recall of the Order dated 17.03.2025, by virtue of the

restoration application, ought to have been accompanied by a delay condonation application since the same was preferred after sufficient long time, after the dismissal order. Hence, the Restoration Application No. 95/ND/2025 was rejected.

5. The Counsel for the appellant had come up with a case that, the view taken by the learned Tribunal that the application was required to be preferred with a delay and that remained unexplained, may not be acceptable for the reason being that, with the restoration application, being preferred on 03.10.2025, the same was preferred along with a delay condonation application, which was duly supported with an affidavit accompanied by a separate Court fees. But, however, on the date fixed, the recall application was listed, but the supporting delay condonation application, despite the same being filed along with the recall application, was not registered and resultantly was not listed before the learned Tribunal, when the Order of 09.10.2025 was passed. Consequently, the learned Tribunal has rejected the restoration application by an order of 09.10.2025.

6. So far as the aspect pertaining to the limitation is concerned, for the purposes of preferring of a recall application in the light of the provisions contained under Rule 48, which is extracted hereunder. Though it contemplates filing of an application within 30 days from the date of dismissal. But it does not create a specific bar that, an application cannot be preferred beyond a period of 30 days from the date of dismissal of the appeal for the want of prosecution and as such, looking to the explanation given in the Rule 48(2) of the NCLT Rules, 2016, the aspect of delay in relation to a

restoration application prescribed under Rule 48, is to be rationally and harmoniously read along with Rule 11 for the purposes of exercising of the inherent powers of the Tribunal to meet the ends of justice. Rule 11 and Rule 48 of the NCLT Rules, 2016 reads as under:-

“11. Inherent Powers. - *Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.”*

“48. Consequence of non-appearance of applicant.-

(1) Where on the date fixed for hearing of the petition or application or on any other date to which such hearing may be adjourned, the applicant does not appear when the petition or the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit.

(2) Where the petition or application has been dismissed for default and the applicant files an application within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the petition or the application was called for hearing, the Tribunal shall make an order restoring the same:

Provided that where the case was disposed of on merits the decision shall not be re-opened.”

7. Here, in the instant case, the appeal was dismissed for want of prosecution on 17.03.2025 owing to certain misunderstanding that prevailed with the Counsel for which the appellant cannot be made to suffer, because

of the Counsel's mistake. The aforesaid fact was bonafidely expressed in the application due to preponing of the sitting of the Tribunal due to, which the Counsel was unable to coordinate to ensure his appearance on 17.03.2025. Such a possibility backed by contingency cannot be ruled out and that too, it has to be rationally construed particularly when the Counsel has taken a stand in the application, which remain unrebutted. So far as the aspect of limitation is concerned, Rule 48(2) of the NCLT Rules, 2016, which prescribes for 30 days of limitation, could also be condoned on a supporting delay condonation application to be filed by the applicant seeking recall of the Order dismissing the company petition for want of prosecution.

8. It is stated by the learned Counsel for the appellant that, the restoration was supported with a delay condonation application and there is no reason to disbelieve the stand taken by the appellant. If the delay condonation application is not presented before the learned Tribunal for its consideration, the appellant cannot be made to suffer and that too on an aspect or the issue of limitation, which cannot be exclusively taken as to be the basis for rejecting the restoration application and that too, more importantly, when the absence is attributable to non-availability of the Counsel.

9. Even otherwise also, the law is well settled that none of the litigant is made to suffer due to dereliction on the part of the Counsel, to appear in the proceedings on an assigned date. The learned Tribunal has failed to take into consideration the stand taken by the appellant and no observation or finding has been recorded that, the restoration application was filed along with the delay condonation application, but rather the delay condonation application

was not placed before the Tribunal because of the reasons not known to the appellant.

10. Owing to the above, and particularly in the wider interest of justice, the impugned order of 09.10.2025 would stand quashed. New Restoration Application No.95/ND/2025 would stand allowed. CP No. IB/2689/ND/2019, would stand restored to its original number which is being requested to be decided on its own merits.

The Appeal is accordingly disposed of.

All interlocutory applications stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Indevar Pandey]
Member (Technical)

18.08.2026

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