



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI
RST.APPLICATION No. 30/2024 IN CP (IB) No.305/MB/2020

[Under Rules 11 and 48 of NCLT Rules, 2016]

IN THE MATTER OF

PRATITI TRADING PRIVATE LIMITED

[CIN: U51909MH1976PTC018985]

Office No.1 and 2, 5th Floor

Aidun Building, J.S.S Road

Near Metro Cinema

Mumbai-400002, Maharashtra.

...Financial Creditor/Applicant

Vs.

RRB REALTORS PRIVATE LIMITED

[CIN: U45200MH2006PTC164465]

Unit No. L-95, Lower Ground Floor

Prime Mall, Irla Society Road

Vile Parle (W)

Mumbai-400056, Maharashtra.

...Corporate Debtor

Pronounced: 28.08.2024

CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)

Appearances: Hybrid

Financial Creditor: Adv. Rohan Aggrawal a/w Vidisha Rohira a/w Krishnan
Iyer i/b Pragnya Legal

Corporate Debtor: Abhishek Kothari a/w Rushabh Parekh and Tirtha
Mukherjee i/b AMR Law



ORDER

[PER: SANJIV DUTT, MEMBER (TECHNICAL)]

1. BACKGROUND

- 1.1 This is an Application filed in CP (IB) No.305/MB/2020 (Main Application) on 10.02.2024 by Pratiti Trading Private Limited, (Applicant/Financial Creditor) under Rule 48 read with Rule 11 of the National Company Law Tribunal Rules, 2016 (NCLT Rules) for restoration of the Main Application which came to be dismissed for default *vide* Order of this Bench dated 11.01.2024.
- 1.2 The Main Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) for initiating Corporate Insolvency Resolution Process (CIRP) in respect of RRB Realtors Private Limited (Respondent/Corporate Debtor) was filed on 04.01.2020 as the Corporate Debtor alleged to have defaulted in repayment of debt amounting to Rs.3,99,20,000/- (Three Crore Ninety-Nine Lakhs Twenty Thousand Rupees) owed to the Financial Creditor.
- 1.3 The Main Application which was pending before Bench-II of this Tribunal was transferred to this Bench by the Hon'ble President, NCLT and came up for hearing for the first time before us on 30.08.2023. Thereafter, it was listed on 26.09.2023; 13.10.2023; 31.10.2023; 20.11.2023; 13.12.2023 and 04.01.2024 on which date the Ld. Counsel appearing for Financial Creditor/Restoration Applicant submitted that she had relinquished her engagement in the matter and hence she did not make her appearance. The Applicant was specifically directed



to make appearance on the next date of hearing and we listed the matter for appearance of the Financial Creditor/Restoration Applicant on 11.01.2024. However, on 11.01.2024 once again, there was no representation for the Applicant/Financial Creditor on that day when the matter was called for hearing. Therefore, the Bench took a view that the Financial Creditor did not wish to pursue the Main Application which was accordingly dismissed for default.

2. CONTENTIONS OF PARTIES

- 2.1 The restoration application filed on 10.02.2024 came up for hearing on 04.06.2024 when the same was heard and reserved for orders.
- 2.2 The Applicant/Financial Creditor submits that it has always been diligent and has appeared whenever the Main Application was listed before this Tribunal from the year 2020, as can be confirmed on perusal of previous orders in the matter. It is stated that the Applicant has good case on merits and hence the dismissal of the Main Application on the ground of default has immensely prejudiced the Applicant. It is submitted that the default of the applicant to appear on 11.01.2024 was not intentional or deliberate. It is pointed out that the previous counsel having relinquished the engagement on 04.01.2024, the Applicant was still in the process of engaging Advocates to represent its case before the Tribunal. It is thus submitted that grave harm and injustice will be caused to the applicant if the Main Application is not restored to the file of this Tribunal. It is prayed that the Tribunal may be pleased to pass appropriate order for restoring the Main Application.



- 2.3 Although the Respondent/Corporate Debtor was represented by a Counsel for hearing on the Restoration Application on 04.06.2024, he objected to restoration of the Main Application to file but fairly submitted that the Bench may exercise its discretion in the matter such as this.

3. **ANALYSIS AND FINDINGS**

- 3.1 We have heard both the Learned Counsel for the Restoration Applicant and the Respondent.
- 3.2 On perusal of records, we find that the Applicant was represented on earlier occasions when the matter was listed for hearing from time to time. It appears to us that since the former Counsel for the Applicant relinquished her engagement, there was some time lag that prevented the Applicant from engaging a new Counsel and hence, there was no representation on 11.01.2024 for and on its behalf. The Learned Counsel who was appearing for it earlier fairly submitted that she had relinquished her engagement on 04.01.2024 before the Bench. This led the Bench to give specific direction for appearance of the Financial Creditor on 11.01.2024. However, it took some time for the Financial Creditor/Applicant to engage a new Counsel.
- 3.3 In view of the above, we hold that the Restoration Applicant/Financial Creditor had sufficient cause for not being represented on 11.01.2024. We feel that rejection of this Restoration Application would prejudice the interest of the Applicant and the Main Application needs to be heard and disposed of on merits. The Restoration Application has been filed within the period of limitation



prescribed under Rule 48 of the NCLT Rules. In the result, this Restoration Application deserves to be allowed.

ORDER

Restoration Application No.30/2024 in CP (IB) No. 305/MB/2020 stands allowed and the Main Application is restored on file which will be heard and disposed of on merits.

List the Main Application on 30.09.2024 for further consideration.

Copy of this Order shall be sent by the Deputy Registrar to Insolvency and Bankruptcy Board of India electronically for their information and record. Ordered accordingly.

Sd/-

**SANJIV DUTT
MEMBER (TECHNICAL)**

//Vani//

Sd/-

**K. R. SAJI KUMAR
MEMBER (JUDICIAL)**