

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Comp. App. (AT) (Ins.) No. 181 & 182 of 2022

In the matter of:

**Shib Shankar Rungta
(Proprietor of S.S. Rungta & Company)
Vs.**

....Appellant

Jai Jute Industries Ltd.

...Respondent

For Appellant:	Mr. Saurabh Kalia, Mr. Rahul Ahuja, PCS Shruti Singhania, Advocates.
For Respondent:	Mr. Abhijeet Sinha, Mr. Siddharth Sharma, Mr. Arjun Asthana, Advocates

ORDER

(Through Virtual Mode)

24.02.2022: Heard Shri Saurabh Kalia, Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 25.11.2019 as well as subsequent order dated 24.03.2021 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata. An Application was filed by the Appellant under Section 9 on which the Adjudicating Authority noticed in its order dated 06.09.2019 that talks for settlement are going on. Subsequently the matter was fixed for 25.11.2019 but on which date neither of the parties have appeared and the Adjudicating Authority dismissed the Application for default. An Application for restoration was filed by the Applicant on 25.08.2020 for recall of the order dismissing in default which

Application has now been dismissed by the Adjudicating Authority by order dated 24.03.2021.

3. Shri Saurabh Kalia, Learned Counsel for the Appellant submits that settlement talks were going on and he has received the offer of settlement. It is further submitted that the Appellant was suffering from different ailments, hence, he could not file the Application.

4. Date of 25.11.2019 was fixed in presence of the Appellant and Appellant was well aware that on 25.11.2019, Adjudicating Authority shall take up the matter but no one appeared and no efforts were taken by the Appellant to find out the order of 25.11.2019 to take appropriate action.

5. Appellant has come up with the case that he had issued certain cheques by the Respondent-Corporate Debtor which were not encashed and were dishonored. He came to know of it on 14.01.2020 only. On the record, it appears that an Application under Section 138 of the Negotiable Instrument Act was filed regarding the dishonor of the cheques but Application for restoration was filed only on 25.08.2020. There is no proper explanation for not filing the restoration application from the date of dismissal till the date of the lockdown was imposed due to Covid-19 i.e. from 25.11.2019 till 24.03.2020. Learned Adjudicating Authority has held that there are no sufficient cause for allowing the restoration Application. We are also of the view that no error has been committed by the Adjudicating Authority in rejecting the restoration application. There is no explanation for delay in filing the Application from 25.11.2019 till 24.03.2020. There is no ground to

interfere with the order. There is not merit in the Appeal. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

Anjali/nn