

316

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

MA/1232/2019 in MA/291/2019 in CP/611/IB/2018
(Filed under Rule 48 of NCLT Rules, 2016)

In the matter of **M/s. Sri Naga Nanthana Mills Limited**

V. Nandagopal

Proprietor
M/s. Rajendra Textiled Engineers
Corporation Commercial Complex,
Shop No.4, Chinnaswamy Layout,
Lakshmipuram, Peelamedu,
Coimbatore – 641 004

.. *Applicant / Applicant*

-Vs-

S. Muthuraju

Liquidator of
M/s. Sri Naga Nanthana Mills Limited
No.3, Sundaram Brohers Layout,
Opposite to All India Radio, Trichy Road,
Ramanathapuram,
Coimbatore – 641 004

.. *Respondent / Respondent*

Present:

For Applicant : *N.S. Sivakumar, Advocate*
For Respondent : *Rohan Rajasekaran, Advocate*

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

Order Pronounced on 4th October 2021



ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

The present Application has been filed by the Applicant under Rule 48 of NCLT Rules, 2016 seeking relief as follows;

In the above circumstances, it is humbly prayed that this Hon'ble Court may be pleased to set aside the order dated 29.08.2019 dismissed for default and restore the CP/611/IB/2018 and consequent Application on file and thus render justice.

2. The Learned Counsel for the Applicant submitted that he had engaged one Mr. C.S. Gopi Narayanan Yadav, Practising Company Secretary to file MA/291/2019 and he appeared on his behalf of the Applicant and also filed his written Submissions on 19.07.2019 and the same was also placed on record. Subsequently, it was submitted that the matter was adjourned for the final submission of the Respondents on 29.08.2019. The learned counsel for the Applicant submitted that when the matter came up for final hearing on 29.08.2019, his counsel suddenly fell unwell on the way and with the help of his friend he reached this Tribunal and before he reached, the matter was called and the application was dismissed for default owing to his non-appearance on the part of the Applicant.



3. It was submitted that the non-appearance on the part of the Applicant on 29.08.2019 is owing to his ill health and hence this Tribunal advised the counsel for the Applicant to file restoration application. The Learned Counsel for the Applicant further submitted that the erstwhile counsel Mr. C.S. Gopi Narayanan Yadav handed over the change of vakalat and bundle to the present counsel only on 27.09.2019 evening 4.30.pm and filed an affidavit to that effect. Hence the present Application was filed before this Tribunal on 30.09.2019. Under such circumstances, the Applicant has filed the present Application under Rule 48 of NCLT Rules, 2016 to set aside the order of dismissal for default passed in MA/291/2019 on 29.08.2019.

4. The reason stated by the Applicant / Operational Creditor appears to be reasonable and plausible. Further this Tribunal is also satisfied that there was sufficient cause for the Petitioner for his non-appearance before this Tribunal on 29.08.2019. Hence this Tribunal is of the considered view that MA/291/2019 should be restored back on file, subject to the payment of **Rs.25,000/-** (*Rupees Twenty Five Thousand only*) by the Applicant to the 'PM



CARES Fund' within a period of 2 weeks from today. Accordingly, **MA/291/2019** stands restored back on the file of this Tribunal.

5. The Registry shall forward the copy of this order to both the parties. The petitioner shall also forward this order along with notice of next date of hearing of MA/291/2019, to the Respondent and file proof of service in the Registry of this Tribunal before the next date of hearing.

6. Accordingly, **MA/1232/2019** stands **allowed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Raymond