



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-V

RA-40/2025
IN
COMPANY PETITION NO. (IB)-44/(ND)/2024

IN THE MATTER OF:

BUSYBEES LOGISTICS SOLUTIONS PVT LTD.

... PETITIONER

VERSUS

SIMBA LOGISTICS PRIVATE LIMITED

...RESPONDENT

Order under Section 9 IBC, 2016

Order Delivered on: 23.07.2026

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Mr. Himanshu Behl (Authorized
Representative) along with Adv. Heena
Dawar

For the Respondent : Mr. Anindit Mandal, Adv.

ORDER

1. Under consideration is an application bearing **Restoration Application (IBC)/40 (ND) 2025** filed by under Rule 11 of National Company Law Tribunal Rules, 2016 seeking the following reliefs:
 - a) Recall the order dated 28.04.2025 dismissing the Company

RA-40/2025

IN

COMPANY PETITION NO. (IB)-44/(ND)/2024

Date of Order: 23.07.2026



- Petition (IB) No. 44 of 2024 for non –prosecution, and
- b) Restoration the petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 being Company Petition (IB) No. 44 of 2024 and
 - c) Direct the registry to list the matter for further proceedings
 - d) Pass and or such order/s this Hon'ble tribunal may deem fit and proper in the facts and circumstances of the case.
2. As per the averments made in this application, the applicant has sought restoration of Company Petition (I.B.) NO. 44 OF 2024 which was dismissed by this Adjudicating Authority for non-prosecution vide order dated 28.04.2025.
 3. The Applicant has submitted that the Company Petition came to be dismissed by this Adjudicating Authority vide Order dated 28.04.2025 on account of non-prosecution. It is stated that the absence on behalf of the Operational Creditor was neither deliberate nor intentional but was occasioned due to the negligence, inaction and lack of communication on the part of the erstwhile counsel engaged by the Applicant. According to the Applicant, the erstwhile counsel failed to adequately inform the Applicant regarding the status of the proceedings and did not ensure proper representation when the matter was taken up before this Adjudicating Authority.
 4. The Applicant has further submitted that it remained under the bona fide belief that the proceedings were being duly attended to and prosecuted by the erstwhile counsel. Upon becoming aware of the dismissal of the Company Petition, the Applicant immediately took steps to engage new counsel and thereafter filed the present Restoration Application. It is further submitted that the Applicant continues to pursue its claim against the Corporate Debtor and seeks an opportunity to prosecute the Company Petition in accordance with law.



5. The Applicant herein submits that the ends of justice would be defeated if the captioned Company Petition is not restored to its original position. The dismissal of the Petition was neither deliberate nor intentional but occurred due to circumstances beyond the control of the Applicant. Non-restoration of the Petition would result in irreparable harm and prejudice to the Applicant. It is, therefore, prayed by the Applicant to restore the Company Petition in the interest of justice. The present application is made bona fide, and without any intention to delay the proceedings or to cause any inconvenience to the Respondent.
6. For ready reference, it would be appropriate to mention here the provisions of Rule 11 and Rule 48 of NCLT Rules, 2016;-

“Rule 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."*

Rule 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.”*



7. As per the provisions enumerated under Rule 11, Tribunal is vested with inherent powers to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of process of the law. The Court of law or Tribunal may use its inherent power only in that case where no specific provision regarding the matters has been enumerated in any Rule of Law. So far as this matter is concerned, Rule 48 as mentioned (supra) enumerates that when an Applicant has defaulted in appearing before the Tribunal and the case has been dismissed for default, as per the Rule 48(2) if the Applicant files an application within 30-days from the date of dismissal and satisfy the Tribunal that there are sufficient causes for his non-appearance when the Petition or the application was called for hearing, the Tribunal shall make order to restore the same.
8. From the provisions of Rule 48, it is clear that the Rule to restore the application is on the behest of the Applicant itself. Rule 48 is a clear provision for restoring the application on consequence of non-appearance of the applicant.
9. On perusal of the record, we find that **CP (IB) NO. 44/ND/2024** was dismissed on 28.04.2025 for non-prosecution. The Order dated 28.04.2025 is reproduced here-below:

“No one is present on behalf of the Operational Creditor at the time of hearing of the matter. It is noted that on the previous date of hearing i.e. on 21.03.2025 also, no one had appeared on behalf of the Operational Creditor. It is noted that previously also i.e. on 12.12.2024 and 31.01.2025 only, the proxy counsel on behalf of the Operational Creditor had appeared. Proxy counsel on behalf of the Corporate Debtor is present. In view of this, the present petition i.e. IB-44/ND/2024 is dismissed for want of prosecution.”
10. The Applicant has filed this present application i.e. **RA/40/ND/2025** on 14.02.2025. Be that as it may, we take note of the reasons given by the Ld. Counsel for the Applicant for non-



appearance and hold that the non-appearance was unintentional and not deliberate therefore, this restoration application stands allowed for the reasons mentioned by the Applicant subject to payment of Cost of **Rs. 50,000/-** to be deposited in the 'Prime Minister's National Relief Fund' within one week of this Order.

11. Accordingly, with the above observations, Restoration Application **(IBC)/40 (ND) 2025** is **Allowed and Disposed of**. Resultantly, the CP **(IB) NO. 44/ND/2024** stands restored to its original stage, subject to payment of **Rs. 50,000/-** in the Prime Minister's National Relief Fund within one week of this Order and the Applicant is directed to file proof of payment of the same.

List the main CP (IB) NO. 44/ND/2025 on 14.08.2026 along with proof of payment.

Sd/-

**MS. REENA SINHA PURI
MEMBER (TECHNICAL)**

Sd/-

**MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)**