

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

**NEW DELHI**

**RESTORATION APPLICATION NO. 5 OF 2019**

**IN**

**COMPANY APPEAL(AT)(INSOLVENCY) NO.160 OF 2019**

**IN THE MATTER OF:**

Cholamandalam Investment & Finance Co Ltd.

Appellant

Vs

R. Venkatakrishnan

Respondents

**For Appellant:-** Mr. Manoj Sharma, Advocate.

**JUDGEMENT**

**20.03.2019** - Appeal preferred by one of the creditors namely M/s Cholamandalam Investment & Finance Co Ltd against order formulated by Adjudicating Authority, NCLT Division Bench, Chennai on 14.11.2018 dismissing appellants' application seeking setting aside of order dated 12<sup>th</sup> July, 2018 directing the appellant to pay the amounts collected during the period of moratorium came to be dismissed for non-prosecution. It happened on 20.2.2019. Restoration Application No.5/2019 has been preferred by the appellant/applicant for setting aside of the order of dismissal on the ground that the then counsel for appellant Ms Soniya Sachdeva had been suffering from ailment necessitating her hospitalisation due to which she could not keep track of the appeal which got dismissed for non-prosecution at the very threshold. The application is supported by an affidavit.

2. After hearing learned counsel for the appellant/applicant I am of the considered opinion that the counsel for appellant has been prevented by a sufficient cause from prosecuting the appeal. Thus a sufficient ground is carved out for restoration of the appeal to file. The application is allowed and the order of dismissal of the appeal for non-prosecution is set aside. The appeal is restored to file on its original number. Let the appeal be posted for consideration at the pre admission stage on 29.3.2019. IA accordingly stands disposed of.

(Justice Bansilal Bhat)  
Member (Judicial)

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