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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.PET. 111/2013 & CO.APPL. 370-371/2013**

DELHI INTERNATIONAL AIRPORT PVT LTD

.....Petitioner

Through: Ms. Srishty Kaul, Mr. Harish
Nadda, Mr. Vikalp Singh,
Mr.Kumar Shashank & Ms.Ankita,
Advocates

Versus

INDUS AIRWAYS PVT LTD & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

19.12.2024

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CO.APPL.1079/2024

1. The present Application has been filed on behalf of the Petitioner seeking restoration of the Petition which was dismissed in default on 09.12.2024. It is submitted that in the Application on account of wrong noting of the date, none could appear on the last date of hearing and even none had appeared on behalf of the Respondents on the said day.

2. For the reasons stated, the Application is allowed and the Petition is restored to its original position.

CO.PET. 111/2013 & CO.APPL. 370-371/2013

3. *Learned counsel for Petitioner* submits that this case may be referred to the NCLT, as no substantial proceedings have taken place.

4. Reliance has been placed on the Judgment of the Apex Court in Action Ispat and Power Private Limited vs. Shyam Metalics and Energy



Limited, (2021) 2 Supreme Court Cases 641 and A. Navinchandra Steels Pvt. Ltd. vs. Srei Equipment Finance Limited, (2021) 4SCC 435.

5. In *Action Ispat and Power Private Limited* (supra), it has been observed that “*post admission of a winding-up-petition and after the assets of the company sought to be wound up become in custodial egis and are taken over by the Company Liquidator, Section 290 of the Companies Act, 2013 would indicate that the Company Liquidator may carry on the business of the company, so far as may be necessary, for the beneficial winding up of the company, and may even sell the company as a going concern. So long as no actual sales of the immovable or movable properties have taken place, nothing irreversible is done which would warrant a Company Court staying its hands on a transfer application made to it by a creditor or any party to the proceedings. It is only where the winding-up proceedings have reached a stage where it would be irreversible, making it impossible to set the clock back that the Court must proceed with the winding up, instead of transferring the proceedings to NCLT to now be decided in accordance with the provisions of the Code. Whether this stage is reached would depend upon the facts and circumstances of each case.*”

6. In view of the observations of the Apex Court, the present Petition is hereby transferred to NCLT, Delhi.

7. All the parties including the Official Liquidator are at liberty to agitate their Application/Claim, before the NCLT, in accordance with law.



8. The entire record be sent to the learned Registrar, Delhi and the interim orders (if any), to continue till the matter is taken up by the NCLT.

6. The present Petition and pending Applications are accordingly disposed of.

NEENA BANSAL KRISHNA, J

DECEMBER 19, 2024

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