$~C-1

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

\+ CO.PET. 491/2013

RATIKA MANCHANDA .....Petitioner

Through: Mr. Amit Kumar and Ms. Arati Kumari, Advocates.

versus

JINDAL INFRA BUILD PVT LTD .....Respondent

Through: Mr. Gurtejpal Singh, Advocate. Mr. Rajat Malhotra and Mr. Tathagat Tiwari, Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **16.12.2024**

CO.APPL. 542/2024 ***(Restoration)***

1. The present Application has been filed on behalf of the Petitioner/Ratika Manchanda for restoration of the Company Petition.

2. It is submitted in the Application that the counsel was coming from NCLT but he got delayed by 5 minutes; in the interim the petition was dismissed in default. It is submitted that non-appearance was not intentional but for the reasons stated therein.

3. A prayer is made that the order dated 04.04.2024 be set aside and the Petition be restored.

4. Learned counsel for the Respondent submits that no cogent reasons have been given in the Application; rather the Petition has

been pending since 2013 and no arguments even for admission, have been held till date, which reflects not only malafide on part of the Petitioner but also that there is no merit in the Petition itself. Further, the Petition is not maintainable.

5. **Submissions Heard**.

6. Considering the reasons stated in the Application for restoration, the same is allowed.

7. Petition is restored to its original number.

CO.PET. 491/2013

8. The record shows that this Petition is pending since 2013 but it has not even been admitted till date. Practically, no proceedings have taken herein.

9. In *Action ISPAT and Power Pvt Ltd vs. Shyam Metalics and Energy Ltd*, (2021) 2 SCC 641, 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."

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

11. Parties to appear before the NCLT on 24.12.2024. Entire record be sent to the NCLT.

NEENA BANSAL KRISHNA, J

DECEMBER 16, 2024
rk