

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH**

RST. A (IBC) No.34/2024
In
CP (IB) No. 237/Chd/Chd/2021
(Admitted)

(Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.)

RST. A (IBC) No.34/2024
IIFL HOME FINANCE LIMITED

having its corporate office at
Plot No.98, Udyog Vihar, Phase IV, Gurgaon-122015
through its authorized representative
Email: mansi.kapoor@iiflhomeloans.com,
mohd.shadab@iiflhomeloans.com
Phone No: 8375916398, 8299302231

Applicant

Versus

**Resolution Professional of Gupta Builders and Promoters
Private Limited
i.e. Shri Mukesh Gupta**
Add. F-1, Milap Nagar,
Uttam Nagar, New Delhi-110059.
Email: camukeship@rediffmail.com

Respondent

And

In the matter of CP (IB) 237/CHD/CHD/2021

M/S AREA IMPORTERS AND EXPORTERS PRIVATE

Financial Creditor

VERSUS

M/S GUPTA BUILDERS AND PROMOTERS PRIVATE LIMITED

Corporate Debtor

Order pronounced on: 31.07.2026

**CORAM: MR. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)
MR. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)**
PRESENT:

For the Applicant

: Mr. Sandeep Suri, Advocate
Mr. Karthik Parmod, Advocate

For the RP

: Mr. Abhishek Anand, Advocate

Mr. Karan Kohli, Advocate
Ms. Ridhima Mehrotra, Advocate
Mr. Mukesh Gupta, RP

ORDER

1. The present Restoration Application has been filed by IIFL Home Finance Limited (hereinafter referred to as the "Applicant") under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as the "Rules"), seeking restoration of IA No. 1925 of 2024 in CP (IB) No. 237/Chd/Hry/2021, which was dismissed for non-prosecution on 23.10.2024.

Submissions on behalf of the Applicant

2. Learned Counsel appearing for the Applicant submitted that IA No. 1925 of 2024 was dismissed for non-prosecution vide Order dated 23.10.2024 on account of the non-appearance of the Applicant when the matter was taken up for hearing. The absence was neither deliberate nor intentional, and the Applicant has been diligently prosecuting the matter. Restoration of IA No. 1925 of 2024 has accordingly been sought in the interest of justice to enable adjudication on merits.
3. Learned Counsel for the Applicant further submitted that Restoration Application (IBC) No. 34/CH/2024 was filed on 25.11.2024 seeking restoration of IA No. 1925 of 2024. The said restoration application, however, was inadvertently filed without the signatures of the authorised officer of the Applicant and under an incorrect provision of law.
4. It is further submitted that pursuant to the directions of this Adjudicating Authority, the Applicant has filed the present amended restoration

application under Rule 48 of the Rules along with the requisite supporting affidavit. According to the Applicant, the omission in the earlier restoration application was bona fide in nature and constituted a curable procedural defect which ought not to defeat its substantive rights.

5. Learned Counsel for the Applicant has placed reliance upon the judgments of the Hon'ble Supreme Court in *Uday Shankar Triyar v. Ram Kalewar Prasad Singh*, *United Bank of India v. Naresh Kumar & Ors.*, and *Associated Cement Co. Ltd. v. Keshvanand* to contend that procedural defects such as absence of signatures or improper authorisation are curable in nature and should not result in dismissal of proceedings on technical grounds.
6. Learned Counsel further submitted that the restoration application was filed on 25.11.2024, whereas the prescribed period expired on 23.11.2024 and 24.11.2024, being Saturday and Sunday, respectively. Reliance has been placed upon Section 4 of the Limitation Act, 1963 read with Section 238A of the Code to contend that the restoration application filed on the next working day, i.e., 25.11.2024, which is within the prescribed period of limitation.

Submissions on behalf of the Respondent/ RP

7. The present restoration application has been opposed on the ground that, as originally instituted, it was not maintainable, having been filed under Section 60(5) of the Code read with Rule 11 of the Rules instead of under Rule 48 of the Rules, which specifically governs restoration of applications dismissed for default.

8. It has been contended that where a specific statutory remedy is available under the Rules, recourse to the inherent powers under Rule 11 or the residuary jurisdiction under Section 60(5) of the Code is impermissible. According to the Respondent, where the statute prescribes a particular procedure for obtaining a relief, the same is required to be followed and cannot be circumvented by invoking the inherent powers of this Adjudicating Authority.
9. It has further been contended that the restoration application was filed beyond the period prescribed under Rule 48(2) of the Rules and, in the absence of any application seeking condonation of delay, the same was barred by limitation. Reliance has been placed upon judicial precedents to contend that condonation of delay cannot be granted as a matter of course and that a restoration application filed beyond the prescribed period without an accompanying application for condonation of delay is not maintainable.
10. It has also been contended that the Applicant has failed to disclose any sufficient cause for its non-appearance on 23.10.2024. According to the Respondent, the explanation of poor internet connectivity is unsupported by any material and does not explain why no steps were taken immediately thereafter to inform this Adjudicating Authority or seek appropriate relief.
11. It has further been contended that the amended restoration application cannot cure the defects in the original application, which was not maintainable when filed. It has also been urged that the original restoration application was filed without the signatures of the authorised

representative of the Applicant and, therefore, did not constitute a valid application in the eyes of law. On these grounds, dismissal of the restoration application has been sought.

Analysis and Findings

12. We have heard the submissions advanced by the parties and perused the material available on record carefully.

13. The present application has been filed for restoration of IA No. 1925 of 2024, which was dismissed for non-prosecution on 23.10.2024. Restoration of an application dismissed in default is governed by Rule 48 of the National Company Law Tribunal Rules, 2016, which reads as under:

“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”

14. A plain reading of the aforesaid Rule 48(2) shows that restoration is conditional upon the Applicant satisfying this Adjudicating Authority that there existed sufficient cause for non-appearance on the date when the matter was called for hearing. The burden to establish such a cause lies upon the Applicant.

15. The record further reflects that the Applicant was afforded repeated opportunities to cure the procedural defects in the restoration proceedings. Vide order dated 28.05.2025, this Adjudicating Authority noticed that no

vakalatnama had been filed and the restoration application had been filed through the affidavit of the learned counsel instead of the affidavit of the Applicant. The Applicant was accordingly directed to file the vakalatnama and clarify the said defect. Thereafter, vide Order dated 24.09.2025, the Applicant was permitted to upload an amended restoration application along with the requisite affidavit. Subsequently, vide Order dated 26.11.2025, the Applicant was granted a further opportunity to file a fresh application with better particulars, which ultimately came to be filed on 13.05.2026.

16. The aforesaid opportunities were granted to enable the Applicant to cure the procedural defects in the restoration application. However, the substantive requirement under Rule 48(2) remained unchanged, namely, to establish sufficient cause for the non-appearance on 23.10.2024. The explanation furnished by the Applicant is confined to an assertion that Learned Counsel could not join the virtual hearing due to poor internet connectivity. No supporting material has been placed on record to substantiate the said assertion, nor has any explanation been furnished as to why no immediate steps were taken to bring the alleged difficulty to the notice of this Adjudicating Authority.

17. The judgments relied upon by the Applicant relate to the curability of procedural defects such as absence of signatures or improper authorisation. Those defects were, in fact, permitted to be rectified by this Adjudicating Authority. The present application, however, cannot succeed merely because such defects have been cured. The essential requirement

under Rule 48(2), namely the existence of sufficient cause for non-appearance, has not been established.

18. In these circumstances, we are of the considered view that the Applicant has failed to satisfy the requirement of Rule 48(2) of the National Company Law Tribunal Rules, 2016. Consequently, no case is made out for restoration of IA No. 1925 of 2024.

19. Accordingly, the Restoration Application (IBC) No. 34/2024 is **dismissed and disposed of**.

Sd/-
(SHISHIR AGARWAL)
MEMBER (TECHNICAL)

Sd/-
(KHETRABASI BISWAL)
MEMBER (JUDICIAL)
Ruhani