



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

**RST.A(Companies Act)/5(CH)2024**

**In**

**CA (CAA) No. 45/Chd/Pb/2019**

**&**

**RST.A(Companies Act)/6(CH)2024**

**In**

**CA (CAA) No. 46/Chd/Pb/2019**

*(Under Rule 11 & 48 (2) of NCLT, 2016)*

**In the matter of:**

**M/s Hind Motors Mohali (Pvt.) Limited**

**MEMO OF PARTIES:**

**Ashish Mohan Gupta,**

S/o Late Sh. C.M. Gupta, R/o H.No.161, Sector  
27-A, Chandigarh being Ex-Director and  
Promoter-Shareholder.

**... Applicant**

**M/s Hind Motors Limited**

(in Liquidation) - (HML for brevity)

**... Respondent**

***Order delivered on: 19.08.2026***

**Coram: SH.VINAY GOEL, HON'BLE MEMBER (JUDICIAL)  
SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)**

***Appearances:***

For the Applicant

: Mr. Sandeep Suri, Advocate

For the Respondent/Liquidator

: Mr. Kamal Satija, Advocate



## **ORDER**

### **Per Coram**

1. The Applicant/Petitioner, Ex-Director, has filed RST.A(Companies Act)/5(CH)2024 & RST.A(Companies Act)/6(CH)2024 under Rule 11 & 48 (2) of the NCLT, 2016, seeking restoration of CA (CAA) No. 45/Chd/Pb/2019 & CA (CAA) No. 46/Chd/Pb/2019, respectively, which were dismissed for non-prosecution by this Hon'ble Tribunal vide order dated 05.04.2024. Since both the applications arise out of the same proceedings and involve common questions of fact and law, they are being considered and disposed of by this common order.
2. These two applications were listed on 07.08.2026 for consideration; learned counsel appearing for the Applicant submitted that he does not want to pursue the applications and prayed that the same be dismissed as withdrawn and not being pressed.
3. At the outset, Counsel for the Respondent raised serious objections about the withdrawal of both applications on the ground that the Applicant has misused the process of law by filing successive and untenable proceedings and that the present applications were based on false assertions. It is further submitted that the litigation concerning the Corporate Debtor had already travelled up to the Hon'ble Supreme Court of India and that, even thereafter, the Applicant had initiated subsequent proceedings seeking, in substance, review/recall of earlier orders. Learned counsel for the Respondent, therefore, contended that the Applicant ought not to be permitted to withdraw the present applications simpliciter and that exemplary costs ought to be imposed upon him.
4. In view of the rival submissions, particularly the serious objections raised by the Respondent to the prayer for withdrawal and the allegations of abuse of the process of law, both the applications were reserved for orders. Before considering the prayer for withdrawal and the objections raised by the



Respondent, it would be appropriate to notice the relevant litigation history of the matter.

5. The Corporate Debtor, namely Hind Motors Limited, was ordered to be liquidated by this Tribunal vide order dated 28.08.2017. The said order was challenged by the Applicant/Ex-Director before the Hon'ble NCLAT and thereafter before the Hon'ble Supreme Court of India. The appeals were dismissed by the Hon'ble NCLAT vide common order dated 26.04.2018, and the Civil Appeal Nos. 5000–5002 of 2018 were thereafter dismissed by the Hon'ble Supreme Court vide common order dated 16.07.2018.
6. Thereafter, the Applicant filed CA(CAA) No. 35/CHD/Chd/2019 under Sections 230–232 of the Companies Act, 2013, which was dismissed by this Tribunal vide order dated 28.11.2019. The said order was challenged before the Hon'ble NCLAT and thereafter before the Hon'ble Supreme Court, where the proceedings ultimately attained finality.
7. The present CA(CAA) Nos. 45/Chd/Pb/2019 and 46/Chd/Pb/2019 were dismissed for non-prosecution by this Tribunal vide order dated 05.04.2024, as none appeared on behalf of the Applicant despite repeated calls. The Applicant thereafter filed RST.A(Companies Act)/5(CH)2024 & RST.A(Companies Act)/6(CH)2024, seeking restoration of the said CA(CAA) Nos. 45/Chd/Pb/2019 and 46/Chd/Pb/2019.
8. The Applicant submitted that on 05.04.2024, learned counsel was engaged before the Hon'ble Punjab & Haryana High Court in a connected bunch matter concerning bail cancellation of the same Applicant and, despite proceeding towards this Tribunal upon being informed that the matters were being taken up, could not reach in time due to traffic congestion. The non-appearance was, therefore, stated to be bona fide and beyond the control of the counsel.



9. As the Restoration Applications were filed beyond the prescribed period, this Tribunal directed the Applicant to explain the delay. The Applicant submitted that the relevant files had been tagged with the files of the High Court proceedings and could not be traced in the office of learned counsel. Upon locating the files, the Restoration Applications were prepared and filed, and condonation of delay was accordingly sought. In fact, the Ex. Directors had filed two separate applications, pertaining to the respective companies, seeking a Scheme of Compromise and Merger, being CA(CAA) No. 45/Chd/Pb/2019 and CA(CAA) No. 46/Chd/Pb/2019, respectively. Both the aforesaid applications were dismissed by this Adjudicating Authority for want of prosecution vide order dated 05.04.2024. The Applicants have filed the present Restoration Applications against the said dismissal order on 30.07.2024.
10. The respondent took various grounds to question the legality and maintainability of said restoration applications and prominently highlighted issues of limitation, relying upon Section 433 of the Companies Act, 2013 read with Article 122 of the Limitation Act, 1963, and contended that the limitation period commenced from 05.04.2024, being the date of dismissal. It is further contended that no sufficient cause had been shown for condonation of delay and that the applications constituted an abuse of the process of law in view of the previous litigation pursued by the Applicant, which had travelled up to the Hon'ble Supreme Court.
11. After the conclusion of the earlier round of litigation up to the Apex Court, the Applicant proposed a Scheme of Compromise and Merger and instituted the subsequent proceedings. At this stage, it would not be appropriate for this Tribunal to enter into the merits or maintainability of the said proceedings. The Applicant may or may not ultimately be found entitled to pursue such a claim; however, merely because such proceedings were instituted pursuant to



the statutory provisions, it cannot, in the facts and circumstances of the present case, be held that the Applicant had misused the process of law. It is only upon adjudication on merits that this Tribunal may record any finding with regard to misuse of the process of law. Since we are not going into the merits of the case, it would not be appropriate to record any such finding at this stage and under the given circumstances. Accordingly, the prayer of the Applicant for withdrawal of the present applications is allowed. In view of the above, we find no merit in the prayer of the Respondent for imposition of costs.

12. In view thereof, RST.A(Companies Act)/5(CH)2024 & RST.A(Companies Act)/6(CH)2024 under Rule 11 & 48 (2) of the NCLT, 2016 are **dismissed as withdrawn and not pressed**.
13. The Registry is hereby directed to send e-mail copies of this order forthwith to all the parties and their counsel for information and to take necessary steps.
14. Let the certified copy of this order be issued upon compliance with the requisite formalities.
15. File be consigned to records.

SD/-

**SHISHIR AGARWAL**  
**MEMBER (TECHNICAL)**

SD/-

**VINAY GOEL**  
**MEMBER (JUDICIAL)**

*Steno A*