ITEM No.310

IA/99(AHM)2026
in
Cont.P/3(AHM)2026
in
TP 45-A 2016(CA 232 of 2013) with TP 45-B of 2016(CA 189 of 2014) with TP 45-C of 2016(CA 263 of 2014) with TP 45 of 2016(CP 73 of 2013)

Under Section Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Arvind Mukundchand Soni **.....Applicant**
V/s
Mr. Girdhar Bavchandbhai Viramgama & Ors **.....Respondents**

Order delivered on: 07/09/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT - I, AHMEDABAD

I.A. No. 99 of 2026
In
Contempt Petition No.3 of 2026
In
TP No.45 of 2016

(Application under Rule 11 of NCLT Rules, 2016.)

In the matter of:

Arvind Mukundchand Soni,
Son of Mukanchand Soni, Aged Adult
Residing at B-502, Fifth Floor, Sejal Apartments,
City Light Road, Surat – 395007, Gujarat;
Director of Respondent No.3
Since 09.05.2005 (DIN 03020726)

... Applicant

VERSUS

1. **Girdharbhai Bavchandbhai Viramgama,**
   Son of Bavchandbhai Viramgama, Adult,
   Residing at 56, Chikuwadi Row House,
   Udhna, G.H.B. Road, Fatehnagar, Surat - 394220;

2. **Madhvi Girdharbhai Viramgama,**
   wife of Respondent No. 1,
   Adult, Residing at 56, Chikuwadi Row House,
   Udhna, G.H.B. Road,
   Fatehnagar, Surat -394220;

3. **Balaji Embroidery Private Limited,**
   A company incorporated under the
   Companies Act, 1956
   (CIN U17110GJ2005PTC046028)
   Having its registered office at
   202, Jai Shree Ram Market,
   Sahara Darwaja, Ring Road,
   Surat – 395003,
   And Works at Plot Nos. 390 to 393,

Unity Industrial Estate,
Nr. Batliboy Co., Bhestan,
Surat -395023

4. Registrar of Companies,
Gujarat, ROC Bhavan,
Opp. Rupal Park Society,
Behind Ankur Bus Stop,
Naranpura, Vastral,
Ahmedabad, Gujarat -382418

... Respondents

Order Pronounced On: 07.09.2026

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant : Mr. Arpit Singhvi, Advocate

For the Respondents:

ORDER
(Per: Bench)

1. This Interlocutory Application being I.A. No. 99 of 2026 has been filed under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking recall of the order dated 27.08.2026 passed in Contempt Petition No. 3 of 2026 and restoration of the Contempt Petition, with the following prayers: -

a) To recall the order dated 27.08.2026 passed by this Hon'ble Tribunal in Contempt Petition No. 3 of 2026 in TP No. 45 of 2016, whereby the said Contempt Petition was dismissed as withdrawn;

b) To restore Contempt Petition No. 3 of 2026 in TP No. 45 of 2016 to its original number and position on the file of this Hon'ble Tribunal, and to hear and adjudicate the same on merits in accordance with law;

c) To allow the present application on such costs as this Hon'ble Tribunal may deem fit; and

d) To pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The Applicant has placed the facts through this I.A. in the following manner: -

2.1. It is submitted that the present application has been filed under Rule 11 of the National Company Law Tribunal Rules, 2016, seeking recall of the order dated 27.08.2026 passed in Contempt Petition No. 3 of 2026 in TP No. 45 of 2016, whereby the Contempt Petition was dismissed as withdrawn, and seeking restoration of the said Contempt Petition to its original number and position for adjudication on merits.

2.2. It is submitted that the Applicant had filed Contempt Petition No. 3 of 2026 under Section 425 of the Companies Act, 2013 read with the relevant provisions of the Contempt of Courts Act, 1971 and Rules 11 and 34 of the NCLT Rules, 2016, alleging wilful and deliberate disobedience of the final order dated 27.06.2019, as clarified by order dated 10.10.2019, passed by this Hon'ble Tribunal in TP No. 45 of 2016, in view of the Requisition Notice dated 03.08.2026, Notice of Board Meeting dated 04.08.2026 along with

the Notes on Agenda, and Intimation dated 04.08.2026 purportedly issued under Section 169(3) of the Companies Act, 2013.

2.3. It is submitted that the said Contempt Petition was listed before this Hon'ble Tribunal on 27.08.2026, on which date, due to a communication gap between the Applicant and his learned advocate regarding the instructions in the matter, the learned advocate, under a bona fide belief as to the Applicant's instructions, made a statement seeking withdrawal of the Contempt Petition. Accordingly, the Contempt Petition came to be disposed of as withdrawn vide order dated 27.08.2026, a copy whereof is annexed as **Annexure A**.

2.4. It is submitted that the learned advocate made the said statement bona fide and in what was perceived to be in the best interest of the Applicant, however, the said course was adopted without the Applicant's concurrence.

2.5. It is submitted that immediately upon coming to know of the withdrawal, the Applicant clarified that he had never intended or instructed for withdrawal of the Contempt Petition and, on the contrary, desired the matter to be heard and adjudicated on merits. It is further submitted that the withdrawal was a result of a genuine and inadvertent communication gap and

did not reflect the Applicant's actual instructions or intention.

2.6. It is further submitted that this Hon'ble Tribunal has inherent powers under Rule 11 of the NCLT Rules, 2016 to recall its order where the same has been passed due to a procedural infirmity, as distinguished from a review on merits. It is submitted that the withdrawal of the Contempt Petition on account of a bona fide communication gap constitutes such a procedural infirmity, particularly when no adjudication on the merits of the Contempt Petition has taken place.

2.7. It is submitted that the Contempt Petition was disposed of at the threshold, without issuance of notice on merits, without any reply from the Respondents and without any adjudication on merits. It is further submitted that no right or vested right has accrued in favour of the Respondents pursuant to the said order, and that recall of the said order and restoration of the Contempt Petition would cause no prejudice to the Respondents. On the contrary, failure to recall the said order would cause grave and irreparable prejudice to the Applicant.

2.8. It is submitted that the present application has been filed promptly and without delay upon the Applicant becoming aware of the withdrawal and clarifying his instructions. It is further submitted that the

application is bona fide and is not intended to protract the proceedings or abuse the process of this Hon'ble Tribunal. The Applicant undertakes to bear such costs as this Hon'ble Tribunal may deem fit to impose as a condition for recall and restoration.

2.9. It is submitted that, in view of the aforesaid facts and circumstances, it would be in the interest of justice to recall the order dated 27.08.2026 and restore Contempt Petition No. 3 of 2026 to file for hearing and adjudication on merits.

3. We have heard the arguments of Ld. Counsel for the Applicant and perused the material available on record. We have considered the pleadings, the documents placed on record, and the submissions advanced on behalf of the Applicant.

4. The Contempt Petition alleged disobedience of the orders dated 27.06.2019 and 10.10.2019 passed in TP No. 45 of 2016, in relation to the Requisition Notice dated 03.08.2026 and notices dated 04.08.2026.

5. On 27.08.2026, the Contempt Petition was listed before this Tribunal. The order dated 27.08.2026 records the appearance of Mr. Dhaval Vyas, Senior Advocate a.w. Mr.

Arpit Singhvi, Advocate and Mr. Sarthak Pandya, Advocates for the Applicant and records that the application was sought to be withdrawn.

6. The Applicant now submits that withdrawal was made due to a communication gap with his counsel and was not in accordance with his instructions. It is stated that the Applicant thereafter expressed his intention to pursue the Contempt Petition on merits.

7. The record contains the Vakalatnama executed in favour of Mr. Arpit Singhvi, Advocate and Mr. Sarthak Pandya, Advocate which is annexed at **Page 250 with Contempt Petition**. The Vakalatnama authorises the Advocate to compromise, settle, **withdraw,** or **agree to withdrawal** of the matter and proceedings arising therefrom.

8. The authority recorded in the Vakalatnama therefore covers withdrawal of the Contempt Petition. The statement made by counsel on 27.08.2026 was within the authority recorded in the Vakalatnama.

9. The subsequent assertion that withdrawal was not intended by the Applicant does not establish any

procedural defect in the order dated 27.08.2026. The issue raised concerns communication between the Applicant and his counsel and not an error committed by the Tribunal

10. In ***Sri Budhia Swain & Ors. v. Gopinath Deb & Ors.,*** (1999) 4 SCC 396; AIR 1999 SC 2089, the Supreme Court held that recall may be exercised in cases including want of jurisdiction, fraud or collusion, mistake of the Court causing prejudice, or non-service of a necessary party.

11. In ***Union Bank of India v. Financial Creditors of M/s. Amtek Auto Ltd. & Ors.,*** Civil Appeal No. 4620 of 2023, decided on 31.07.2023, 2023 LiveLaw (SC) 589, the Supreme Court held that recall is distinct from review and may be exercised for a procedural error.

12. In ***Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr.,*** Civil Appeal Nos. 7590-7591 of 2023, decided on 12.02.2024, 2024 INSC 102; (2024) 6 SCC 767, the Supreme Court held that Rule 11 preserves the power of recall, but such power is not to be exercised for rehearing a matter.

13. In ***Himalayan Cooperative Group Housing Society v. Balwan Singh,*** (2015) 7 SCC 373; AIR 2015 SC 2867, the Supreme Court held that counsel requires authority for a statement which concludes or surrenders the client's substantive rights. In the case before us, such authority for withdrawal is expressly recorded in the Vakalatnama.

14. The Applicant has not pleaded want of jurisdiction, fraud, non-service of a necessary party, or any mistake committed by this Tribunal in passing the order dated 27.08.2026. No material is placed to show that the authority to withdraw was restricted or revoked before the said order.

15. The fact that the Contempt Petition was not adjudicated on merits does not, by itself, constitute a ground for recall. The order dated 27.08.2026 was passed on the statement made on behalf of the Applicant through authorised counsel.

16. Annexure A to the I.A. is the order dated 27.08.2026. The record of Contempt Petition No. 3 of 2026 contains Annexures A to Q, which relate to the merits of the contempt proceedings and do not establish any ground for recall of the withdrawal order.

17. The liberty granted by the order dated 27.08.2026 permits the Applicant to recourse in accordance with law. The present I.A. cannot be used to substitute the withdrawal recorded on 27.08.2026 with a subsequent decision to pursue the same proceeding.

18. In view of the **Vakalatnama** authorising withdrawal and absence of any ground recognised in law for recall, no case is made out for exercise of the inherent power under Rule 11 of the NCLT Rules, 2016.

19. Accordingly, **I.A. No. 99 of 2026** is **dismissed**. The order dated 27.08.2026 passed in Contempt Petition No. 3 of 2026 shall remain in force. There shall be no order as to costs.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

Rutvik St.