

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1191 of 2019**

**IN THE MATTER OF:**

**Oriental Bank of Commerce**

**...Appellant**

**Versus**

**Sidhartha Builhome Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**           **Mr. S.K. Sharma, Mr. Kailash Sharma and Mr. Sabhay Choudhary, Advocates**

**For Respondent :**       **Mr. Prateek Gupta, Advocate**

**O R D E R**

**03.12.2019**       This appeal has been preferred by the Appellant – ‘Oriental Bank of Commerce’ against the order dated 3<sup>rd</sup> September, 2019 whereby the Adjudicating Authority (National Company Law Tribunal), New Delhi. Court – III rejected the application filed under Section 7 of the ‘Insolvency and Bankruptcy Code, 2016 (for short, ‘the I&B Code’) by the ‘Oriental Bank of Commerce’ for non-prosecution with the following observations:

*“Ld. Counsel for the petitioner is present. CA No. 578/C-III/ND/2019 has been filed under Rule 48 (2) of NCLT Rules seeking for restoration of the Application which was dismissed for non-prosecution vide order dated 06.08.2019 as the reasons espoused by Ld. Counsel for the Applicant/ petitioner in the said Application is that due to heavy rain and massive traffic jam, he was not able to be present before this Tribunal which led to the dismissal of the main Company petition for non-prosecution. However, based on the reasons as narrated in the said*

*application, we are not convinced as it is seen from record of proceedings, Ld. Counsel for the Corporate Debtor was present.”*

Heard Mr. S.K. Sharma, learned counsel appearing on behalf of the Appellant and Mr. Prateek Gupta, learned counsel appearing on behalf of the Respondent. We are satisfied that the Appellant has made out a case for the restoration of the application which was filed by it. Further we have noticed that the pleadings has also been completes and the Respondent having appeared and filed its objection. In the circumstances, we set aside the impugned order dated 3<sup>rd</sup> September, 2019 and restore the C.P. No. (IB) – 717(ND)/2019 to its original file of National Company Law Tribunal, New Delhi. Court – III. The Adjudicating Authority will now issue notice to the Respondent and fix the date ‘for Admission’ of the application filed under Section 7. Parties will appear before the Adjudicating Authority on 18<sup>th</sup> December, 2019 at 10.30 A.M. and bring this order to the notice of the Adjudicating Authority.

The appeal is allowed with the aforesaid observations and directions.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)

/ns/sk