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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of Decision: 28th April, 2025

+ CM(M) 2175/2024, CM APPL. 17193/2024 & CM APPL. 19953/2024
SHOMIT FINANCE LIMITEDPetitioner

Through: Mr. Shohit Chaudhary, Advocate.

versus

ARUN KUMAR SHARMARespondent

Through: Mr. Nikhilesh Kumar, Advocate
(through V.C.)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is a very short one.
2. A complaint was filed by Mr. Arun Kumar Sharma (respondent herein) against M/s Shomit Finance Ltd. and another. Such complaint was filed before the Consumer Disputes Redressal Forum – X, Qutub Institutional Area, New Delhi and was allowed *vide* order dated 29.05.2017.
3. Feeling aggrieved, the petitioner herein filed First Appeal before the learned State Commission, New Delhi which was registered as FA No.A/346/2017.
4. When such appeal was taken up for consideration by the learned State Commission on 01.12.2022, noticing that there was no appearance from the side of the appellant, it formed a view that the appellant was not interested in pursuing the matter and, resultantly, the same was dismissed for *non-prosecution*.
5. The appellant, initially, filed an application before the learned State



Commission seeking restoration of its said appeal but such request was turned down for the reason that there was no such power of restoration with the learned State Commission.

6. Resultantly, a Revision Petition was filed before the learned National Consumer Disputes Redressal Commission (in short 'NCDRC') and such Revision Petition has also been dismissed *vide* order dated 16.01.2024.

7. It is in the abovesaid backdrop that the present petition has been filed with the prayer that the Appeal may be restored to its original position and number.

8. It is contended that there was never any intention to delay or prolong the Appeal and the non-appearance was, solely, on account of some communication gap within the office of the petitioner Company and the earlier non-appearance was on account of pandemic of Covid-19.

9. Learned counsel for the respondent/complainant, who has joined the proceedings through *video conferencing*, submits that without prejudice to his rights and contentions, he would have no objection if the present petition is allowed and the Appeal is restored to its original position and number. He, however, submits that there should not be any further inaction or any incident of non-participation from the side of the appellant before the learned State Commission.

10. Learned counsel for the petitioner/appellant undertakes to extend its best cooperation in this regard to the learned State Commission.

11. Keeping in mind the overall facts and circumstances of the case and the gracious concession given by learned counsel for the respondent/complainant and the fact that the endeavour of Court should be to decide the case on merits, instead of, on technicalities, the present petition is allowed with



direction that the aforesaid Appeal i.e. First Appeal No.A/346/2017, which was dismissed for *non-prosecution* on 01.12.2022, stands restored to its original position and number.

12. Needless to say, consequently order dated 16.01.2024 passed by learned NCDRC, is also set aside.

13. The parties are directed to appear before the learned State Commission on 15.05.2025.

14. It is expected that the petitioner/appellant would not cause any further delay in the matter and would appear before the learned State Commission as per directions.

15. The interim order passed by this Court stands extended till 15.05.2025.

(MANOJ JAIN)
JUDGE

APRIL 28, 2025/st/js