

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, DELHI**

263(4)2015

M/s Jean Paul Corp. of India vs. APFC/RPFC Delhi.

Present: Sh. Prakash Kumar, Ld. Counsel, for the Appellant.
Sh. S.N. Mahanta, Ld. Counsel for the Respondent.

Order dated-08.07.2025

1. Ld. Counsel for the appellant has pressed his application for restoration of the present appeal. His contention is that due to the fault of the previous counsel who has not seriously contested resulted in dismissal of the appeal for want of prosecution on 10.02.2022. He also stated that the registry of this office had also not sent any copy of the order dated 10.02.2022 as such appellant was not at all having knowledge about the dismissal of the case vide order dated 10.02.2022. The new counsel was hired and after inspection of the file, he has found the negligence shown by the previous counsel for which he submits that it will not be proper to punish the appellant. As such he submits that this application be allowed and appeal be restored to its original number.
2. Ld. Counsel for the respondent has filed a reply opposing the prayer. He has narrated the fact leading to filing of the appeal as well as listing of the appeal on several occasions. He further submits that even on 15.01.2020, appeal was dismissed for want of prosecution. Thereafter, appellant had filed an application for restoration of appeal which was listed on 19.02.2020. Hence, he submits that application deserves to be dismissed as it has been filed after delay.
3. I have heard the argument and perused the record. Vide order dated 07.05.2015 Sh. Harish Gupta, erstwhile Presiding Officer EPFAT had disposed of the application u/ s **70 of the EPF & MP Act, 1952** directing the appellant to deposit the 50% of the assessed amount. Amount was

deposited and the matter was listed for final arguments. However, final arguments could not take place as the appellant did not appear on 14.03.2019 as well as 15.01.2020. On 15.01.2020, appeal was dismissed for want of prosecution. In between restoration of application moved. Even vide order dated 10.02.2022, the application for restoration was again dismissed for want of prosecution.

4. In this scenario, appellant has pressed his application which he has filed afterwards placing reliance on Rule 15 of the Tribunal (Procedure) Rules, 1997 which is reproduced hereunder:-

15.Action on appeal for appellant's default.(1) Where on the date fixed for hearing of the appeal or on any other date to which such hearing may be adjourned, the appellant does not appear when the appeal is called for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merit.

(2) Where an appeal has been dismissed for default and the appellant files an appeal within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the appeal and restore the same.

Provided, however, where the case was disposed of on merits the decision shall not be re-opened except by way of review.

5. Record speaks a lot of negligence on the part of the appellant. After obtaining the stay by depositing 50% of the assessed amount appellant has not chosen to continue with this appeal. First he had not appeared at the time of hearing the appeal. Subsequently, even after two year of filing of the restoration application he has not taken care of pursuing the application for restoration of the appeal. When it was dismissed, he had again filed this application.

6. Ground of negligence on the part of the counsel of the appellant does not give so much leverage to the appellant to get this appeal restored from this tribunal. The manifest negligence as depicted on record does not give any relaxation to the appellant. Hence, application for restoration of the appeal being devoid of any merit is hereby dismissed.

ATUL KUMAR GARG
Presiding Officer