

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

**MA(COMPANIES ACT)/7(KB)2026
IA(COMPANIES ACT)/43(KB)2026
IN
CP/620(KB)2017**

*An application under Section 241 of Companies Act, 2016 and Rules 11
and 48 of the National Company Law tribunal Rules, 2016.*

In the matter of:

Shiw Aambagan Complex Private Limited, having its registered office at
402, Trinity Tower, 4th Floor, 83, Topsia Road (South), Kolkata- 700046.

And

In the matter of:

Viren Ganeriwala, residing at P594, Block 'O', New Alipore, Kolkata-
700053.

... .. Petitioner

Versus

1. Shiw Aambagan Complex Private Limited, having its registered office
at 402, Trinity Tower, 4th Floor, 83, Topsia Road (South), Kolkata-
700046.
2. Ramesh Kumar Prithani, residing at Ideal Gardens, Flat No.1B, 20,
Mandeville Gardens, Kolkata- 700019.
3. Y.K. Choraria, residing at/working for gain at 20, Mullick Street, 3rd
Floor, Kolkata- 700007.

... .. Respondents

And

In the matter of:

Viren Ganeriwala, residing at P594, Block 'O', New Alipore, Kolkata-
700053.

Date of pronouncement: 12th June, 2026

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

Appearance (via video conferencing/physically)

Mr. Sanjay Kumar Gupta, CA] For the Applicant

Mr. Rohit Kumar Keshri, Adv.]

Mr. Ankit Chaurasia, Adv.]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Court convened via hybrid mode of conferencing.

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2. The Learned Authorized Representative for the Applicant were heard *in extenso*.

MA(COMPANIES ACT)/7(KB)2026

3. The Applicant seeks the following reliefs:
- (a) *To allow filing of additional page No.6A, having corrected paragraph (h) which may be treated as a substitute to page No.6, as annexed herewith and marked as “A 3”.*
- (b) *Pass such further other order/s and/or direction/s be given as this Hon’ble Tribunal may seem fit and proper.*

4. The said Advocate-on-Record admits not only being casual in his approach but also filed a faulty application being IA(COMPANIES ACT)/16(KB)2023 and has even admitted that the wrong date being 19th November, 2022 has been inadvertently mentioned in IA(COMPANIES ACT)/16(KB)2023 while 19th November, 2022 being a Saturday.

He admits that it is not the Court's duty to determine whether the date mentioned in the petition as the date of hearing falls on a Saturday or a Sunday, but it is the duty of the Advocate-on-Record to correctly mention the date in the application.

IA(COMPANIES ACT)/43(KB)2026

5. This application being IA(COMPANIES ACT)/16(KB)2023 was disposed of with the following order dated 28th January, 2026 which reads as under:

- “1. On 19.12.2022, the CP was dismissed for non-prosecution having recorded the following orders:
- 1.1. None had appeared for the Petitioners.
- 1.2. IA 16/KB/2023 has been preferred by the Petitioners in the CP stating that
- ”

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1.2.1. *The Hon'ble Tribunal posted the matter on **19.11.2022**, and on that the Advocate on Record of the Applicant was present in the court premises since morning. Since the Instant matter was listed towards the end of the list and the Court Room was over crowded, he waited on the ground floor and was regularly watching the display Board on this Hon'ble Bench's Court I for his turn. Thereafter, when the board was not moving after Serial No. 202 to the Ordinary List, the Advocate on Record physically reached to NCLT Bench Court I situated at first floor at around 12.45 and after coming to the Court, the Ld. Representative of the Respondents apprised that all the aforesaid 7 Petitions having C.P. No. 620/KB/2017 to 626/KB/2017 was dismissed by this Bench due to non-Prosecution. A copy of the Order dated 19.12.2022 is attached and marked as "A-4".*

1.2.2. *It is submitted that the non presence of the Advocate on Record of the Applicant is unintentional and without any mala fide intention in as much as he waited on the ground floor and relied on the*

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*display board, which malfunctioned
resulting into this unfortunate incident.*

*1.2.3. It is further submitted that the dismissal
of Company Petition causes huge
prejudice to the Petitioners as it was
dismissed **ex-parte** without hearing on
merit.”*

*2. Thus no reason has been assigned for their non-
appearance on 19.12.2022.*

*3. In view of the fact as stated above, the present
application IA No.16/KB/2023 stands dismissed.*

*4. Certified copy of this order may be issued, if applied
for, upon compliance of all requisite formalities.”*

- 6.** It is submitted that in IA(COMPANIES ACT)/16(KB)2023 the posting date of 19th November, 2022 was wrongly mentioned since the copy of the order dated 19th December, 2022 will show that the posting date was 19th December, 2022 itself and, therefore, the recording in paragraph 2 of the order dated that no reason has been assigned for non-appearance on 19th December, 2022, be deleted.
- 7.** Although, having gone down correctly in the order that cannot be the ground for dismissal for IA(COMPANIES ACT)/16(KB)2023.
- 8.** Mr. Sanjay Kumar Gupta, appearing on behalf of the Applicant admits that on 19th December, 2022 the petitioner was not present.
- 9.** He categorically admits that while seeking restoration of the company petition to its original file and position, the application

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being IA(COMPANIES ACT)/16(KB)2023 that was preferred had wrongly mentioned the posting date as 19th November, 2022 whereas the posting date would be 19th December, 2022 and, therefore, the order dated 28th January, 2026 be rectified to that effect that the date of posting and date of non-appearance and the reason for non-appearance on the posting date as given in paragraph 1.2.1 should be considered and the date of posing as 19th November, 2022 as in para 1.2.1 be rectified to 19th December, 2022 and the order dated 28th January, 2026 be recalled and IA(COMPANIES ACT)/16(KB)2023 be allowed restoring the company petition to its original file and position.

- 10.** We have considered the submissions.
- 11.** The reason given in the application that the Advocate-on-Record of the Applicant was present in the Court premises since morning and was watching the proceedings and was even apprised that the seven petitions were dismissed could not be a ground for seeking recall of the order.
- 12.** If the Advocate-on-Record was vigilant enough, even if he failed to appear on the time of call, he would have mentioned the matter immediately when he came to know the dismissal of the seven petitions due to non-prosecution.
- 13.** The deliberate non-appearance of the Advocate-on-Record is a sufficient ground for dismissal of the company petition thus whether he had attended in the morning and missed the matter at the time of call is of no relevance. He ought to have been vigilant enough and watched this matter being called instead of loitering around.

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- 14.** Apparently not only he disappeared when the matters were called, and was as such, fully responsible for dismissal of the matters for default, he had also casually drafted an application to seek recall of the dismissal orders and has reasonably failed to justify why he stayed away when his matter was called.
- 15.** However, since his client should not suffer for his irresponsible conduct, instead of dismissing this **MA(COMPANIES ACT)/7(KB)2026** outright, it is **allowed**. The order passed in IA(COMPANIES ACT)/16(KB)2023 is recalled, prayers in **IA(COMPANIES ACT)/43(KB)2026** is **allowed**, the order dated 19th December, 2022 in CP/620(KB)2017 is recalled only upon payment of costs of ₹ **2,00,000/- (Rupees Two lakhs only)** in favour of **Prime Minister's National Relief Fund**.
- 16.** The CP is directed to be restored to its original file and position subject to production of proof of payment.
- 17.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 18.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Siddharth Mishra
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order signed on this the 12th day of June, 2026.

SM (Steno)