

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

**D-1/73/2019**

**M/s Nice International Limited Vs. RPFC-II, Delhi South.**

Present: Sh. Prateek Pandey, for the Appellant/applicant.  
Proxy for Sh. A.K. Singh, & Sh. Prateek Tyagi, A/R for the Respondent.

**Order Dated-24.07.2025**

**ORAL**

1. This order shall dispose a misc. application filed on behalf of the appellant/applicant for restoration of his appeal which was dismissed by this tribunal on 13.05.2025 due to non appearance of the Id. Counsel for the appellant.
2. The present application for restoration is filed by the appellant/applicant on 11.07.2025. Along with this application, he has also filed another application for condonation of delay in filing the restoration application.
3. While pressing his application for restoration, Id. Counsel for the applicant stated that although, the matter was listed on 13.05.2025, however, he could not appear despite his best efforts and his matter was dismissed for non prosecution. He also stated that he was present at the court premises but could not appear due to overlapping court appearances. In his application, he has mentioned his case details which were listed before Court no. 308 at Rouse Avenue District Court as well as before JMFC Dwarka Court. He further prayed that his absence was neither intentional nor deliberate and he is intended to prosecute the matter with due diligence. The Id. Counsel for the applicant stated that the delay in filing this application for restoration is attributable to the fact that the applicant Sh. Aditya mathur is suffering from oral cancer for the last eight years and due to his unfortunate medical condition & undergoing treatment at Ahmedabad, the application could not be signed within the time frame as prescribed under the rules.

4. Per contra, the counsel appearing for the respondent stated that the appellant is required to move an application for restoration of his appeal within thirty days from the dismissal due to the default shown on behalf of the appellant. She further stated that the appellant had failed miserably in filing of the restoration application within the prescribed time limit and thus, the application is required to be dismissed.
5. I have heard the arguments at bar and perused the record. Before proceeding further in the present case Rule 15 of the Tribunal (Procedure) Rules, 1997 wherein the action on appeal for appellant's default are mentioned is required to be reproduced here under:-

***Rule 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.***

6. Above said rules make it mandatory to the appellant to file an application for restoration of appeal within thirty days from the date of dismissal. Further, appellant shall have satisfied this tribunal that there was sufficient cause of non appearance when

the appeal was called for hearing. Here the present application counsel itself had stated that he was present in the Rouse Avenue District Court when the appeal was fixed. He did not take care of informing the tribunal about his business in other court premises. Moreover, he has not taken any care of filing of application within thirty days. Even he has not enclosed any recent medical paper of the A/R of appellant who is suffering from cancer for the last eight years because the appellant had blamed that A/R of the firm was not available due to his physical condition. Though, the applicant has not shown any sufficient cause which prevented him to file this restoration application in time, yet, it is always better to decide the appeal on merits rather than to dismiss it on technical grounds.

7. Therefore, it is just and proper that the present application filed for restoration of appeal be allowed subject to a cost of Rs.5000/- out of which Rs.2000/- is to be paid to respondent and Rs.3000/- with DLSA within four weeks from today. If the said cost is paid within the prescribed period, the appeal shall be restored to its original number and at the same stage where it was before its dismissal. Put up on 30.09.2025 for reporting compliance.

Sd/-  
Atul Kumar Garg  
(Presiding Officer)