

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

C.P. NO. 05/2016

IN THE MATTER OF:

M/s. Jagdish Timber Mart

... Petitioner

Vs.

Safelex International Ltd.

... Respondent

Order under Section 433(e) & 434(1)(a) of the Companies Act, 2016

Order delivered on 28.06.2017

Coram:

**CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President**

**Ms. Deepa Krishan
Hon'ble Member (T)**

For the Applicant/
Petitioner

: Mr. Utkarsh Tewari, Advocate

ORDER

On 28.03.2017, the Tribunal had granted time to the petitioner to file compliance affidavit in terms of the Rules known as 'Companies (Transfer of Pending proceedings) Rules, 2016 and the needful was required to be done within two weeks. According to the Pending Proceedings Rules, the petitioner was to disclose every information for the purposes of admission of this petition under the provisions of Insolvency & Bankruptcy Code, 2016 and the various Rules framed thereunder. The matter was posted for hearing on 18.04.2017 and it was again listed on 23.05.2017. The matter was dismissed for non-prosecution on 23.05.2017. The order dismissing the petition for non-prosecution was recalled on



31.05.2017 and the petition was restored to its original number. When the matter came up for hearing on 27.06.2017, one last opportunity was granted to the petitioner to address arguments on 28.06.2017 with a stipulation that no further adjournment was to be given.

According to Rule 5 of the Pending Proceedings Rules, initially period of filing compliance affidavit was 60 days and vide order dated 23.05.2017, time was granted to the petitioner. The period of 60 days was extended to six months which came to end on 13.06.2017(Notification No. G.S.R. 175(E) dated 28th February, 2017). Rule 5 further provides that in case compliance was not made then such like petitions were to abate. Accordingly, the petition has abated on 13.06.2017 as the compliance affidavit in terms of proviso to Rule 5 of the Pending Proceedings Rules has not been filed.

As a sequel to the above discussion, the petition is dismissed as abated. However, we grant liberty to the petitioner to file a fresh petition on same cause of action which shall be subject to all just exception.

Petition stands disposed of.

Sd/-

(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-

(DEEPA KRISHAN)
MEMBER(TECHNICAL)