

IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI  
SPECIAL BENCH

CP No.1035/2016

IN THE MATTER OF:

M/s. Tops Security Limited

.....PETITIONER

Vs.

M/s. Lumax Automotive Systems Pvt. Ltd.

... RESPONDENT

SECTION :

Under Section 433 (e),434 & 439

Order delivered on 04.7.2017

Coram :

R. VARADHARAJAN,  
Hon'ble Member (Judicial)

DEEPA KRISHAN,  
Hon'ble Member (Technical)

For the Petitioner : Mr. P.S. Sridhar Raj, Advocate  
For the Respondent : -

ORDER

This Petition has been filed by the 'Operational Creditor' under Section 9 of the Insolvency & Bankruptcy Code, 2016. During the course of the proceedings, it transpired that the Operational Debtor-Respondent is already facing winding up process before the Hon'ble High Court in Company Petition No.829 of 2016 which is posted for hearing on 24.08.2017 along with many other such Petitions. The details of the aforesaid proceedings in Company Petition No.829 of 2016 titled 'APPL Industries Ltd. vs. Lumax Automotive

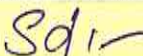


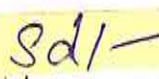
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System Limited have been furnished by the Counsel for Operational Creditor-Petitioner during the course of hearing today.

In view of the above, we deem it appropriate to refer the matter to the Hon'ble Delhi High Court as the process of winding up is already in progress in the proceedings before the Hon'ble Delhi High Court against the Operational Debtor-Respondent. We have already opined that against the Company, there could be only one process of liquidation either before the Hon'ble Delhi High Court or before the Tribunal because issuance of two processes may result in conflict between the Official Liquidator and the Insolvency Professional. In order to avoid any such unpleasant situation and to have the claim of all debtors settled in one proceedings would be a better option. Moreover, it would also avoid unnecessary expenses and confusion amongst the creditors. Therefore, the Petitioner is relegated to Hon'ble Delhi High Court. Accordingly, this Petition is transferred to Hon'ble Delhi High Court to be heard with Company Petition No.829 of 2016 along with others. This is also in conformity with Notification bearing No.GSR 732 (E) dated 29.06.2017 issued by the Central Government in exercise of powers contained under sub Sections (1) and (2) of Section 434 of the Companies Act, 2013 read with sub Section ) (i) of Section 239 of the Insolvency and Bankruptcy Code, 2016 and titled as Companies (Transfer of Pending Proceedings) Second Amendment Rules, 2017.

The papers shall first be placed before the Hon'ble the Chief Justice at the first instance for passing appropriate order.

  
(DEEPA KRISHAN)  
MEMBER (TECHNICAL)

  
(R. VARADHARAJAN)  
MEMBER (JUDICIAL)

Surjit  
04.7.2017