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Division Bench

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

CP(IB) NO.406/KB/2017

Present: Hon'ble Member (J) Shri Vijai Pratap Singh

Present: Hon'ble Member (J) Shri K.R.Jinan

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 11th August, 2017, 10.30 A.M

Name of the Company		Hada Textile Industries Ltd	
Under Section		IBC	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Paron Kumar Jha CFO
petitioner. Tanas / K. Jha
2. Dipak Kumar Singh (Director)
" Dipak Kumar Singh
3. Swit Saman Koley
WBSEDCL Swit Saman Koley

ORDER

Ld. Counsels for the petitioners and the Ld. Counsel for WBSEDCL are present.

On perusal of the record it appears that the petitioner, Hada Textiles Industries Ltd. earlier had filed C.P.No. 171/2017 as a corporate applicant and that application was rejected by this Division Bench by order dated 13/04/2017.

Again Hada Textiles Industries Ltd. has filed this petition under the Insolvency and Bankruptcy Act, 2016 without mentioning the section.

In the earlier application following order was passed:-


"It appears from the petition that BIFR vide its order dated 16/01/2004 sanctioned the Rehabilitation Scheme of the Corporate Applicant and appointed IFCI as Monitoring Agency to monitor the progress of implementation of the scheme. In para 9 of the application, the scheme is stated to be effective till 31/03/2017. As per Section 4(b) of Sick Industrial Companies (Special Provisions) Repeal Act, 2003 as amended vide notification dated 28/05/2016, all the BIFR matters have been abated except for sanctioned scheme, which has been saved in terms of section 5 of the Repeal Act and as such the sanctioned schemes are continued to be binding, which was effective upto 31/03/2017."


"The Central Government vide notification dated 25/11/2016 has enforced the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 w.e.f. 01/02/2016 and accordingly, the BIFR has been dissolved. It appears from the above notification that proceeding before the BIFR stands abated and the petitioner was having liberty to initiate proceeding under the provisions of Insolvency and Bankruptcy Code, 2016 within 180 days from the date of commencement of Insolvency and Bankruptcy Code, 2016."

"The petitioner has not filed the petition under the Insolvency and Bankruptcy Code, 2016 and this Tribunal does not have power to amend the order of BIFR or to extend the scheme period sanctioned by BIFR for further five years under IBC Code, 2016."

Again this petition has been filed by the same petitioner under IBC 2016, and numbered as C.P. (IB) No. 406/KB/2017, which happens to be an even number. As per order passed by the Hon'ble President, NCLT all the even number case should be heard by Bench No.2. Therefore, in spite of the fact that Division Bench has earlier heard and dismissed the same matter on maintainability ground. Since this new case being an even number case, it is appropriate to be heard by the Bench No.2.

Office is directed to list the matter before Bench No.2 on 21/08/2017.


(K.R.Jinan)
Member (J)


(Vijai Pratap Singh)
Member (J)