

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

5  
T.C.P No. 323/(MAH)/2017

CORAM:

Present:


SHRI B.S.V. PRAKASH KUMAR  
MEMBER (J)

SHRI V. NALLASENAPATHY  
MEMBER (T)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 17.07.2017

NAME OF THE PARTIES: Citizen Credit Co-Op Bank  
V/s.  
ESS Infraproject Pvt.Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
1	Narash S. Trivedi i/b PRS legal	Coaching Company Secretary	

ORDER

TCP No. 323/I&BP/NCLT/MB/MAH/2017

On the memo of withdrawal filed by the Petitioner's Counsel, this Petition  
is 'dismissed' as withdrawn.

Sd/-

V. NALLASENAPATHY  
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR  
Member (Judicial)



BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

INTERLOCUTORY APPLICATION NO. OF 2017

IN

COMPANY PETITION NO. 325 OF 2017

Abhyudaya Co-operative Bank Limited .....Applicant/Original Petitioner

Versus

SMS Taxicabs Private Limited .....Respondent

INDEX

Sr No.	Particulars	Page No.
1.	Notice of Motion	1-4
2.	Interlocutory Application	5-8
3.	Affidavit	9-10
4.	Copy of Demand Draft	11

*ADP*

Advocates for the Applicant



1

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

INTERLOCUTORY APPLICATION NO. OF 2017

IN

COMPANY PETITION NO. 325 OF 2017

In the matter of Insolvency and

Bankruptcy Code 2016

And

In the matter of Companies Act 2013

And

In the matter of Rule 8 of Insolvency

and Bankruptcy (Application to

Adjudicating Authority) Rules 2016

And

In the matter of Rule 44 of National

Company Law Tribunal Rules 2016

And

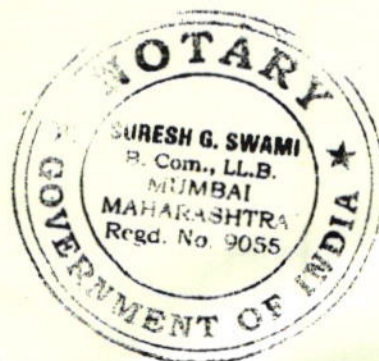
In the matter of *SMS Taxicabs*

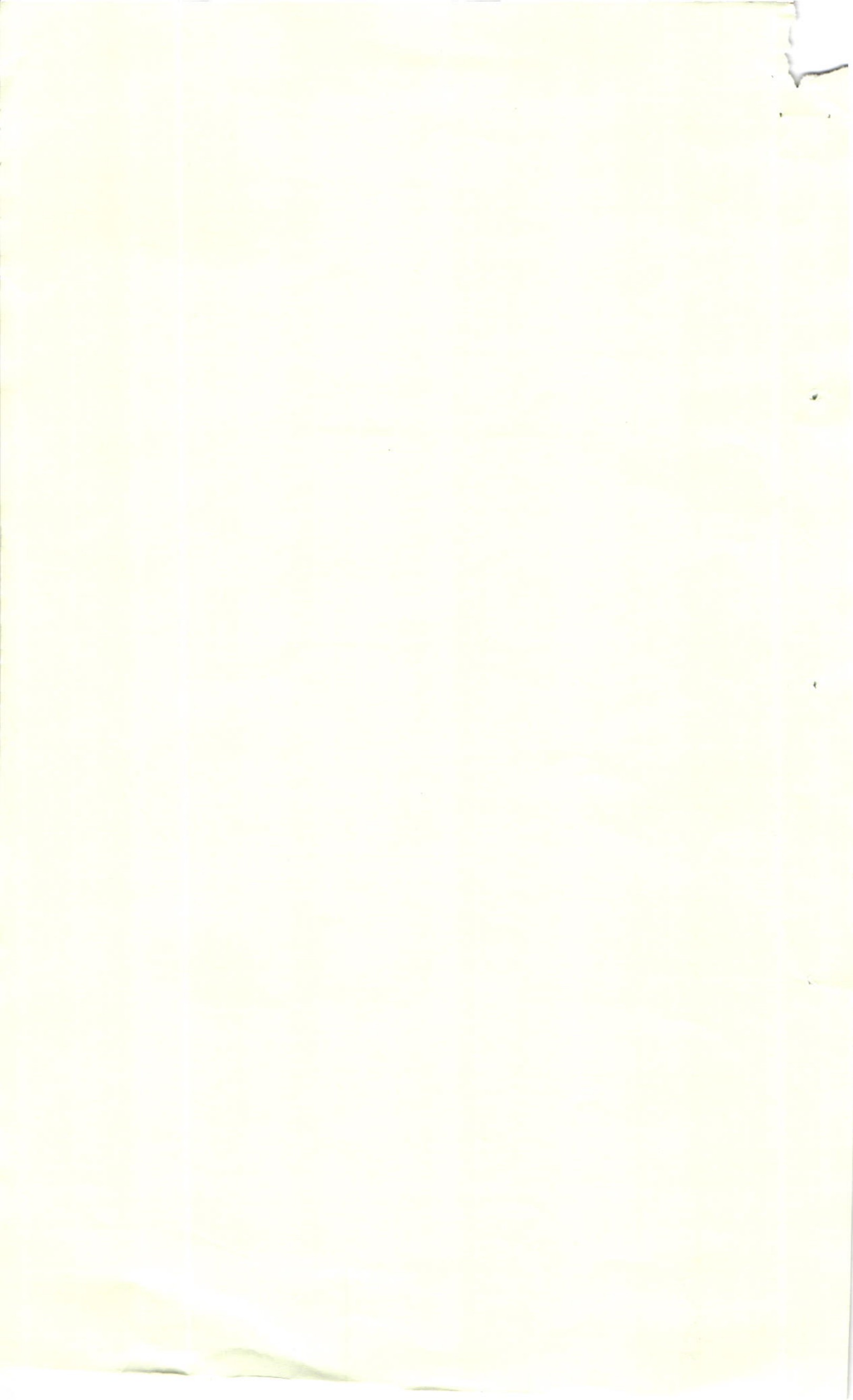
*Private Limited*

Abhyudaya Co-operative Bank

Limited having its registered office at

Building No.36/2512, Abhyudaya







Nagar, G D Ambekar Marg, Mumbai –  
400 033 and administrative office at  
K.K. Tower, Abhyudaya Bank Lane,  
Off G.D. Ambekar Marg, Parel,  
Village, Mumbai – 400

012

.....Applicant/Original Petitioner

Versus

SMS Taxicabs Private Limited  
incorporated under Companies Act  
2013 and having its registered office  
at 151, 15<sup>th</sup> Floor, Mittal Court, "B"  
Wing, Nariman Point, Mumbai 400

021

.....Respondent

**NOTICE OF MOTION**

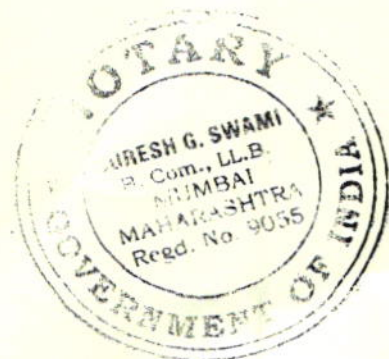
Date:

From: Abhyudaya Cooperative Bank Limited (Original Petitioner/Financial  
Creditor)

To: The National Company Law Tribunal

**Concerning:**

Name: SMS Taxicabs Private Limited



3

File No.: Company Petition No. 325 of 2017 (So numbered subsequent to transfer from the Hon'ble Bombay High Court)

The Applicant above named requests that the Tribunal grant the following relief –

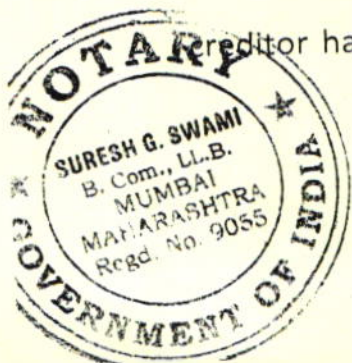
A) Company Petition No. 325 of 2017 be permitted to be withdrawn by the Applicant

The humble prayer of the Applicant may be granted under Rule 8 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 and/or Rule 44 of National Company Law Tribunal Rules 2016 and/or such other provisions of Insolvency and Bankruptcy Code 2016 or Companies Act 2013 or such Rules made under the Code or the Act.

**For the following reasons:**

The Company Petition was preferred by the Applicant in the Hon'ble High Court of Bombay on the basis of inability of the Respondent to repay the debt owed by the Respondent to the Applicant. Due to change in the regime of insolvency laws in India, the Company Petition came to be transferred to this Tribunal.

During pendency of the Company Petition, the Applicant who is financial creditor has substantially recovered the debt owed by the Respondent to







4

the Applicant. Therefore the Applicant is not desirous to prosecute the Company Petition and prays for withdrawal of the Company Petition.

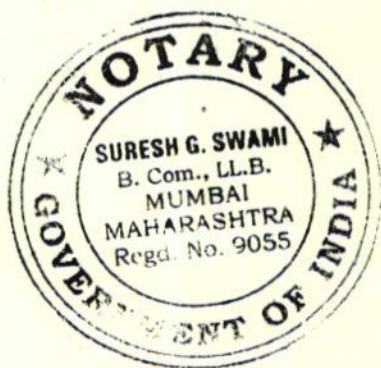
The Applicant has enclosed an affidavit in support of the present Application wherein relevant facts have been set out.

Advocates for the Applicant

For **Abhyudaya Co. (P) Ltd.**

Manager/Sr. Manager  
Applicant

PRS Legal, 115, Birya House, 265,  
Perin Nariman Street, Fort, Mumbai –  
400 001; Phone – 022 2263 4828;  
Email: prs.legal@yahoo.com



BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

INTERLOCUTORY APPLICATION NO. OF 2017

IN

COMPANY PETITION NO. 325 OF 2017

In the matter of Insolvency and  
Bankruptcy Code 2016

And

In the matter of Companies Act 2013

And

In the matter of Rule 8 of Insolvency  
and Bankruptcy (Application to  
Adjudicating Authority) Rules 2016

And

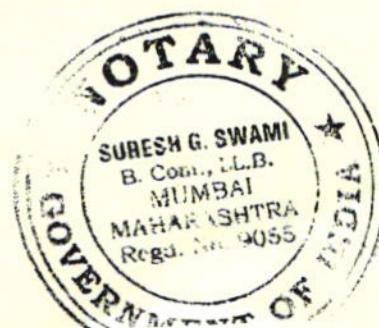
In the matter of Rule 44 of National  
Company Law Tribunal Rules 2016

And

In the matter of *SMS Taxicabs*

• *Private Limited*

Abhyudaya Co-operative Bank  
Limited registered under Multi State  
Cooperative Societies Act 2002 and







महाराष्ट्र MAHARASHTRA

2017

SE 323715

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

INTERLOCUTORY APPLICATION NO.

OF 2017

IN

COMPANY PETITION NO. 325 OF 2017

प्रधान मुद्रांक कार्यालय, मुंबई  
प. मु. वि. क्र. ८००००२०

19 MAY 2017

सक्षम अधिकारी

Abhyudaya Co-operative Bank Limited

.....Applicant श्री. सु. का. पाटील

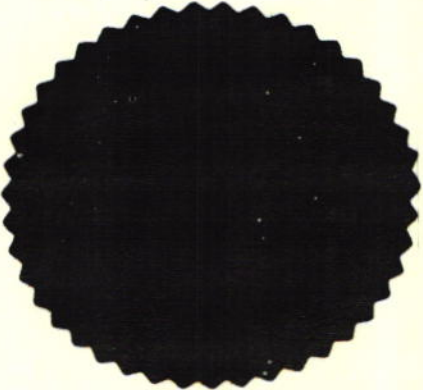
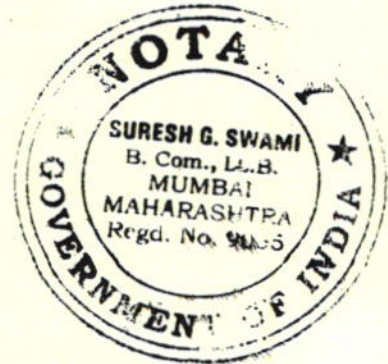
Versus

SMS Taxicabs Private Limited

.....Respondent

**General Affidavit Verifying Application**

I, Rajendra S.Gurav son of Sitaram G.Gurav aged about 51 years and working with the Applicant as Manager (Legal) at its office at K.K. Tower, Abhyudaya Bank Lane, Off G.D. Ambekar Marg, Parel, Village, Mumbai – 400 012 do solemnly affirm and say as follows –

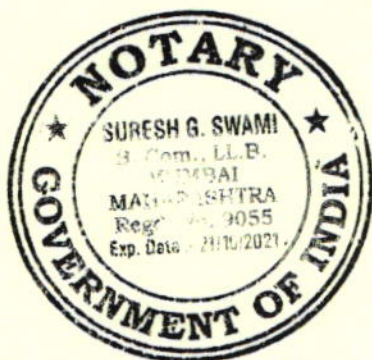





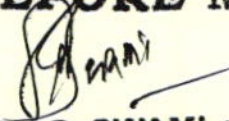
1. I am working with the above named Applicant/Original Petitioner as Manager (Legal) at the Applicant's office situated at K.K. Tower, Abhyudaya Bank Lane, Off G.D. Ambekar Marg, Parel, Village, Mumbai - 400 012. I am duly authorized by the Applicant/Original Petitioner to make this affidavit on its behalf.
2. The statements made in paragraphs of the Application herein now shown to me are true to my knowledge and the statements made in paragraphs 1 to 5 are based on information and I believe them to be true.

*For Abhyudaya Co-op Bank Ltd.*  
  
 Manager/Sr. Mani

Solemnly affirmed by Rajendra S Gurav, Manager (Legal)  
 for Abhyudaya Cooperative Bank Limited on this 5<sup>th</sup> day  
 of June 2017.

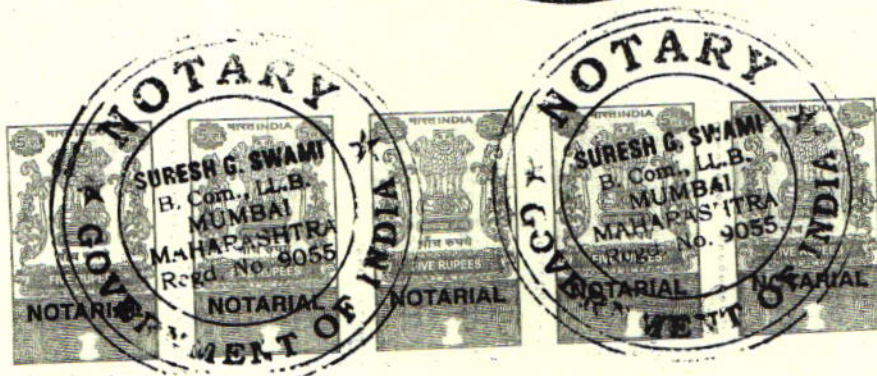


**BEFORE ME**



**SURESH G. SWAMI**, B.Com., LL.B.  
 Advocate High Court Notary  
 (Mumbai), Govt. of India  
 Ekmat CHS Ltd., Flat No. 07/01,  
 Manisha Nagar, Kaiwa (W),  
 Thane 400 605. Cell: 9323657727

05 JUN 2017



NOTED AND REGISTERED  
 At Sl. No. 662  
 Dated 05/06/2017



8

Date: 06.06.2017

Place: Mumbai

Advocates for the Applicant

*ADG*

For Abhyudaya Co. Bank Ltd.

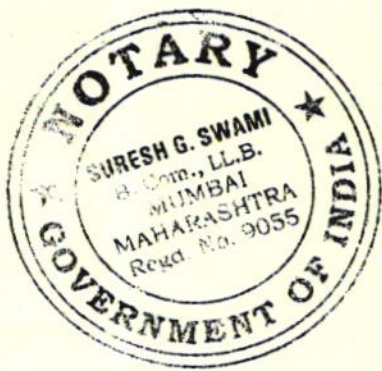
*[Signature]*  
Manager/Sr. Manager  
Applicant

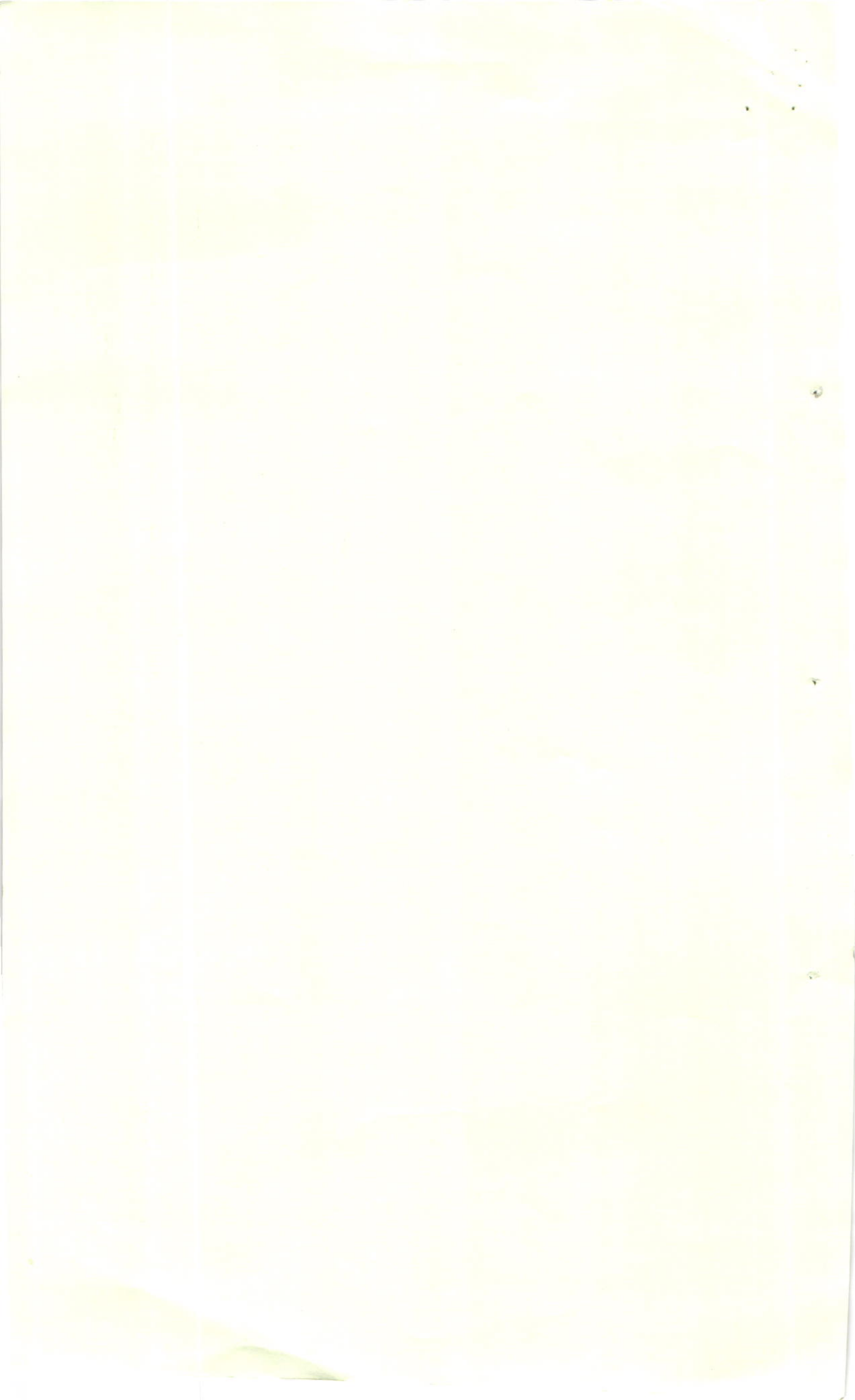
PRS Legal, 115, Birya House, 265,

Perin Nariman Street, Fort, Mumbai –

400 001; Phone – 022 2263 4828;

Email: prs.legal@yahoo.com







3. Facts of the case – The Applicant had rendered certain credit facilities to the Respondent on requisition of the later. Since the Respondent failed to repay the debt thus owed by it to the Applicant, the Applicant preferred a Company Petition in the Hon'ble High Court of Bombay. While the Company Petition was pending in the Hon'ble Bombay High Court, there was brought about a change in the regime of insolvency laws in India. On account of this change in insolvency laws, the Company Petition preferred by the Applicant came to be transferred to this Tribunal.

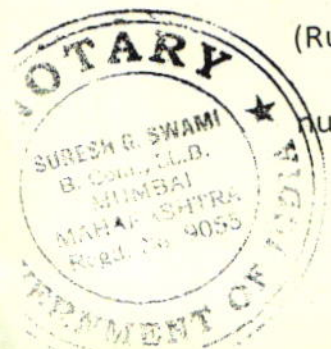
During the pendency of the Company Petition, the Applicant, who is financial creditor to the Respondent, has substantially recovered the financial debt owed by the Respondent to the Applicant. Therefore the Applicant is not desirous to prosecute the Company Petition and prays for withdrawal of the Company Petition.

4. Relief sought – In view of substantial recovery of the financial debt by the Applicant, it is prayed in terms of this Application that the Company Petition be allowed to be withdrawn and the Company Petition be disposed of as withdrawn.

5. Particulars of the Bank Draft for payment of application fee –

Drawn on HDFC Bank in favour of the Pay and Accounts Officer,  
Ministry of Corporate Affairs at Mumbai for a sum of Rupees 1000/-  
(Rupees One Thousand only). It is dated 17<sup>th</sup> May 2017 and bears

number 797860.



having its registered office at Building  
No.36/2512, Abhyudaya Nagar, G D  
Ambekar Marg, Mumbai – 400 033  
and administrative office at K.K.  
Tower, Abhyudaya Bank Lane, Off  
G.D. Ambekar Marg, Parel, Village,  
Mumbai – 400

012

.....Applicant/Original Petitioner

Versus

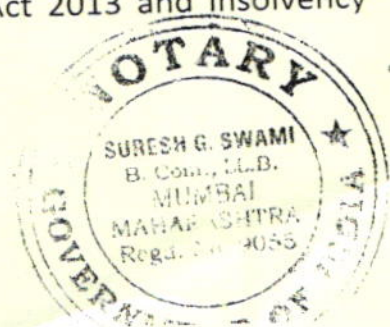
SMS Taxicabs Private Limited  
incorporated under Companies Act  
2013 and having its registered office  
at 151, 15<sup>th</sup> Floor, Mittal Court, "B"  
Wing, Nariman Point, Mumbai 400

021

.....Respondent

1. Jurisdiction of the Bench – The Applicant declares that the subject matter of the present Application as well as the Company Petition is within the jurisdiction of this Bench.

2. Limitation – The Applicant further declares that the Application is within limitation as contemplated in Companies Act 2013 and Insolvency and Bankruptcy Code 2016.







**सिंडिकेटबैंक**  
**Syndicate Bank**  
 सिंडिकेटबैंक, सिडको, मुंबई  
 सिंडिकेटबैंक, सिडको, मुंबई

5000  
 बी.एस.ए. कोड  
 B.I. CODE

कोर्ट, मुंबई - 400 001 (महाराष्ट्र)  
**FORT, MUMBAI - 400 001 (Maharashtra)**  
 शाखा सं./Ph.No.

5000/3093122  
 DEMAND DRAFT  
 16062017  
 D D M M Y Y Y Y

1001/- से अधिक नहीं  
 Not over ₹. 1001/-

ON DEMAND PAY Pay and account of **Ministry of Corporate Affairs** **Mumbai** आदेश पर  
 माँगे जाने पर  
**RUPEES One Thousand only**

प्राप्त मूल्य के बदले अदा करें  
 ₹ 1000/-

**सिंडिकेटबैंक / Syndicate Bank**  
 CBS

**SIGNATURE VERIFIED**  
**FOR VALUE RECEIVED**  
 कृते सिंडिकेटबैंक / For SYNDICATEBANK

IFSC : SYNB0005000

**Servicer Box Mumbai**  
 (अदालतों, शाखा/DRAWEE BRANCH)

**Tyoti Ghoshale**  
 शाखा/REMITTER'S NAME  
 सि.आई.कोड/BI Code  
 5003

21688  
 सि.आई.कोड/BI Code  
 सिंडिकेटबैंक/Authorized Signatory  
 सिंडिकेटबैंक/Authorized Signatory  
 Please sign above

जारी करने की तारीख से 3 महीने तक वैध  
 VALID FOR 3 MONTHS FROM DATE OF ISSUE  
**MDCL**

245475 000025000 005000 16



BEFORE THE NATIONAL COMPANY LAW  
TRIBUNAL  
BENCH AT MUMBAI  
INTERLOCUTORY APPLICATION NO.  
OF 2017  
IN  
COMPANY PETITION NO. OF 2017

Abhyudaya Co-operative Bank Limited  
.....Applicant

Versus

SMS Taxicabs Private Limited  
.....Respondent

---

**Interlocutory Application**

---

Advocates for the Applicant

PRS Legal, 115, Birya House, 265, Perin  
Nariman Street, Fort, Mumbai – 400  
001; Phone – 022 2263 4828; Email:  
[prs.legal@yahoo.com](mailto:prs.legal@yahoo.com)