

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 16/(MAH)/2017
CA No.

CORAM:

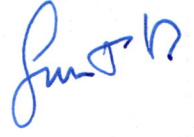

Present: SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 04.04.2017

NAME OF THE PARTIES: Shyam Indofab Pvt. Ltd.
V/s.
Midas Touch Exports Pvt. Ltd.

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

S. No.	NAME	DESIGNATION	SIGNATURE
14.	Ashwini Inool Smriti Biradar	Seni Counsel } Advocates for corporate Debtor	
	ARUN SAXENA	Adv.	

ORDER

CP No.16/2017/I&BP/NCLT/MB/MAH/2017

Looking at the application filed by the corporate debtor seeking setting aside of the order passed on 17th February 2017 on the ground that ex-parte order was passed on 17-02-2017, this bench makes it clear that the order passed u/s. 7, 9 and 10 cannot be treated as ex-parte orders especially when section 8 notice has been served on the other side. Therefore, the absence of corporate debtor on the date of hearing will not give any opportunity to the corporate debtor to file set aside application before this Bench.

On perusal of the sections 7, 9 and 10 it has been nowhere mentioned that the corporate debtor or creditor u/s. 10 are entitled to file set aside petition on the

(p.t.o)

ground that matter has been heard ex-parte. Therefore, the ratio decided for setting aside a petition under the ground order has been passed ex-parte is not applicable. Accordingly, this application is hereby dismissed.

As to the application filed by the petitioner for withdrawal of this company petition it is also made clear that once Moratorium with consequential directions has been passed, it is not possible for withdrawal of the company petition.

For this reason alone, under ^{of 94B (Application to Adjudicating Authority) Rules} Rule 8, it has been mentioned withdrawal is permissible ~~only after~~ before admission of the company petition moved by the creditor or debtor. Hence this application is hereby dismissed.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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