

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 40/(MAH)/2018

CORAM:



Present: SHRI M.K. SHRAWAT
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 02.02.2018

NAME OF THE PARTIES: Gharonda Readymix Concrete.
V/s.
Gammon India Ltd

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

S. No.	NAME	DESIGNATION	SIGNATURE
1	G.K. JAIN	Chartered Accountant for Petitioner	
2	P.N. Dixit	CP/40/I&BC/NCLT/MB/MAH/2018	

1. This Petition is filed on Form No.5 by the Operational Creditor viz. Gharonda Readymix Concrete for an alleged Operational Debt as per Part-IV, quote "₹4,81,037/- being tax deducted on 14/03/2017 for ₹7,69,013/- but deposited only ₹2,87,976/-. The debt fell due on 14/03/2017". As per the Petition the Corporate Debtor is Gammon India Limited.
2. From the side of the Petitioner Learned Representative Mr. G.K. Jain and from the side of the Respondent Company Mr. P.N. Dixit present. Admitted factual position as narrated before us is that the Respondent Company was required to deduct TDS and thereupon under obligation to deposit the TDS with the Income Tax Department, however, failed to comply the obligation. It is informed that as per Form 26 AS the Respondent Company had deposited only ₹2,87,976/- as against the "Liability" to deposit the TDS of ₹7,69,013/-.

3. On the last occasion when the matter was listed for hearing on mentioning the default of non-deposit of TDS was communicated to the Representative of the Respondent Company. He had assured to make good the default by depositing the Tax.
4. Today, when the matter was called for hearing, the Representative of the Respondent Company with a letter of Authority made a statement that the balance TDS amount had now been deposited which can be confirmed from the requisite Form 26 AS available on the official site of the Income Tax Department.
5. Learned Representative of the Petitioner has also made no objection of the statement rather stated that in a situation when the TDS amount has already been deposited the Petition can be treated as "withdrawn".
6. The legal question whether the obligation to deposit TDS to the Income Tax Department by a Deductor on behalf of the Deductee, the non-payment of Tax qualifies under the definition of "Operational Debt" is left open, since in this case the Respondent Company has made good the default by depositing the balance TDS. As a consequence, there ought not to be any grievance of the Petitioner because the compliance has been made by the Respondent Company. In a way, this Petition has become redundant.
7. This Petition is disposed of as "withdrawn". To be consigned to Records.

Sd/ *an***BHASKARA PANTULA MOHAN**

Member (Judicial)

Date : 02.02.2018

ug

Sd/-

M.K. SHRAWAT

Member (Judicial)