

National Company Law Tribunal

Allahabad Bench

CP NO. 72/ALD/2017, CA No. 19/ALD/2017

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.01.2018

NAME OF THE COMPANY: Nayan Shree Education Pvt Ltd & ORS.

SECTION OF THE COMPANIES ACT/I & B CODE: 230/232 of the Companies Act of 2013

Sl. NO.	Name	Designation	Representation	Signature
1.	Shahid Kazmi	Advocate	of Petitioner	
2.				

CP No.72/ALD/2017 with CA No.19/ALD/2017

The case is preponed today for pronouncement of order. On the merits of the present company petition in order to sanction the proposed company scheme. We have gone through the contents of the Present Company Petition and perused the affidavits, report filed by the R.D and ROC, Kanpur respectively and further perused an undated affidavit sworn in by Mr. Gorav Gupta, being a Director of the company in respect of non-pendency of prosecution, proceedings and winding up application.

From a perusal of such affidavit, it may be seen that this Affidavit is silent on certain aspects of a proceedings initiated against the petitioner company U/s 12 of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014) wherein an order has been passed by the ROC, Kanpur on 06.11.2017. In fact, in this proceedings of the Company through its Director appeared before the Adjudicating Authority Kanpur on 03.11.2017 and made oral submission and furnished written submission. The Adjudicating Officer/ROC Kanpur by relying on the same has passed a considered order with such observation that the company and its Directors are advised to avoid such lapses in future. However, the above referred affidavit of the Director of Company does not speak about it. Further, the relevant record/ or detail of proceeding conducted before the Adjudicating Officer (ROC, Kanpur) were not brought to the notice of this Court. As per the material available on records, these proceedings were initiated against the company by virtue of

Ministry of Corporate Affairs' Gazette notification dated 14.03.2015, appointing the ROC, Kanpur as an Adjudicating Authority.

In addition to the above, the office of the Joint Director, MCA has pointed out about the observation as made by the Adjudicating Authority against the Company to avoid such lapses in future.

By considering these circumstances, we are of the view, that a supplementary affidavit as per prescribed procedure to be filed before this Court to clarify about the observation of the Adjudicating Authority as to whether, it has some bearing or impact on the sanction of the present company scheme.

Further, we must record our dissatisfaction about the manner such Affidavit of Director of Company is filed before this Court, because the deponent signed only in verification column and not initialled in each pages of the affidavit. Further his signatures bear no date nor the place of affirmation is mentioned in the body of affidavit. Despite this notary public has attested the same, which cannot be proper and is a matter of concern. Therefore, we inclined to summon to Mr. Gorav Gupta, the Director of Company to be remain present in this Court with his clarification/or supplementary affidavit, but at the request of Sh. Shahid Kazmi, the petitioner counsel, we dispense with the personnel presence of Mr. Gorav Gupta.

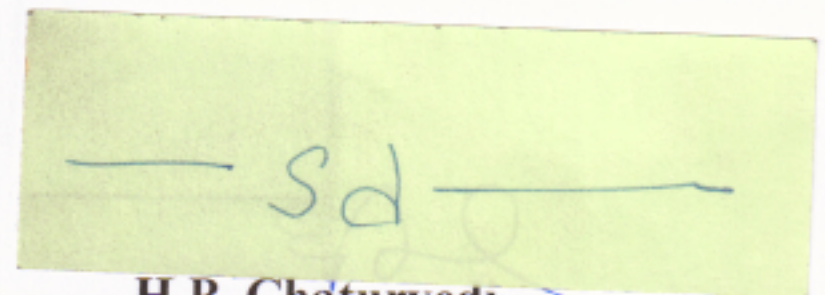
Notwithstanding the above, the ROC being Adjudicating Authority is hereby instructed to produce an authentic copy of the record of proceedings conducted U/s 12 of the Companies Act for perusal of this Court with its specific comments about its order as to whether, such is having impact or otherwise on sanction of the proposed company scheme.

A copy of this order to be communicated to the ROC, Kanpur and to the CGSC.

The matter to be listed on 25th January, 2018.

Date: 09/01/2018

Typed by
Kavya Prakash
(Stenographer)



H.P. Chaturvedi,
Member(Judicial)