

National Company Law Tribunal

Allahabad Bench

CP NO. 80/ND/2016

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.12.2017

NAME OF THE COMPANY: Saharan Ashiyana Pvt Ltd

SECTION OF THE COMPANIES ACT/I & B CODE: 241/244 of the Companies Act of 2013

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
1.	MR. ARUN SAXENA	ADV	Petitioners	Khalni
2.	MS. NALINI	ADV		
3.	Shishir Dwivedi holding brief Mr. Manu Khare	ADV	Respondent No. 4	Shukh.
4.	Diptiman Singh	Advocate		
			Respondent No. 2, 3, 5, 6, 7	Birgh

C.P. No. 80/ND/2016

Shri Arun Saxena alongwith Ms. Nalini, Advocates for the petitioner. Shri Diptiman Singh, Advocate for Respondent Nos. 2,3,5,6,7. Shri Sisir Devidi, proxy for Manu Khare for Respondent No.4.

Learned counsel for the petitioner drew our attention to the amendment application preferred for seeking such relief to carry some amendment in the Main Company Petition, which the petitioner feel necessary for a proper disposal of the present petition and for seeking justice.

Shri Diptiman Singh, Advocate for Respondent Nos. 2,3,5,6,7 informed that, he does not propose to file any formal reply to such application but to oppose orally such Amendment Application and would submit that this application after hearing the submission of counsel for both the parties can be decided on its merits. However, the Counsel for Respondent No. 4 prays for filing a formal reply to the present application. However, we find that the Respondent No.4 has already availed sufficient opportunity to file a reply to such Amendment application. Hence, further time for filing formal reply is disallowed.

The Court proceed with for hearing of counsel from both sides on such Amendment Application. Advocate, Shri Dipti Man Singh and Shri Sisir Devidi, proxy for Manu Khare for Respondent No.4. vehemently opposed

the prayer sought for at this stage in the Amendment Application, as it is filed with a motive to protract the litigation and to delay the proceedings.

Having heard the rival submission of the parties, we feel such Amendment Application can be allowed because in our view, the Respondent would get a fresh opportunity to make consequential amendment in their reply to the Main Company Petition. Further, in our view, if such Amendment Application is allowed would not make any change in the nature of the present petition and neither it would change the cause of action nor it would prejudice seriously to the interest of opposite parties, as they would be at liberty to counter the same on its merit. Therefore, the present Company Application No. 104/2017 seeking relief for amendment is allowed in terms of its prayer clause.

The petitioner is further directed to carry necessary amendment in the Main Petition within two weeks and to serve an advance copy thereof to the Respondents within four weeks. The petitioner is further required to file afresh, fair copy of the amended petition in this Court.

The Respondents are at liberty to file counter reply/ make consequential amendment in their reply to the Main Company Petition (C.P. No. 102/2017) that is to be done by another two weeks from the receipt of the copy of the amended portion of the petition.

A copy of such consequential amendment/ reply shall be provided to the petitioner counsel as well as to counsel for other Respondents. The Respondent No.4 is equally expected to serve a copy of its reply/ consequential amendment of its Reply to the counsel for Respondent nos. 2,3,5,6,7, in addition to the petitioner counsel.

The Petitioner counsel further brings to our notice some glaring facts in the present matter stating such the Respondent No.4 has still not produced the requisite statutory documents of the Company in the seal cover before the Registry of this Tribunal, despite repeated reminders and direction issued by this Tribunal. As such, documents may be relevant for disposal of the present petition and such omission tantamount to non-compliance of this court's order/direction.

At this stage, the counsel for the Respondent No.4 would submit that whatever the relevant documents, the Respondent No. 4 having in its possession have already been produce before this Court.



During the course of argument, on being enquired from the Registry of this Tribunal, it is intimated that on behalf of the Respondent No. 4, Advocate Manu Khare has filed an affidavit dated 25.7.2017 annexing with a copy of certain documents thereafter no any documents in seal covered has been submitted before the Registry till date.

The Counsel appearing for Respondent No. 4 made efforts to convinces us that all relevant documents of the Company have already been produced before the Registry of this Tribunal, the Respondent N. 4 is not having possession of any other statutory documents, which the Company is legally required to maintain it and to keep in its office records.

However, we are not impress upon such contention, therefore, we direct our Registry to make scrutiny of the documents produce before it and to furnish a report in this respect. That apart, we further direct to the Registrar of the Companies, Kanpur to make necessary inspection of the record of the Company and to submit a comprehensive report on the State of affair of the company and to submit the same by three weeks from the receipt of a copy of this order.

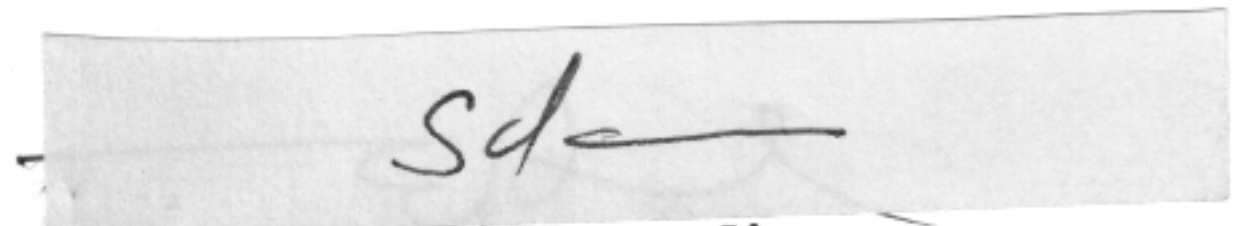
Meanwhile, a final conditional opportunity is granted to the Respondent No. 4 company to file all statutory documents in its possession before this Tribunal with pay a cost of Rs. 25,000/- irrespective of the outcome of inspection and report to be made by the ROC, Kanpur.

The Registry of this Tribunal is directed to communicate a copy of this order to the ROC, Kanpur at the earliest.

The matter be listed on 22<sup>nd</sup> January, 2018.

Date: 14/12/2017

Typed by  
Jyoti  
(Stenographer)



**H.P. Chaturvedi,  
Member(Judicial)**