

National Company Law Tribunal

Allahabad Bench

CP No.49/2016

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 20.02.2017

NAME OF THE COMPANY: Jai Prakash Associate Ltd

SECTION OF THE COMPANIES ACT: U/S 391/394 of Companies Act,1956

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
<u>1.</u>				
<u>2.</u>				

CP No.49/2016: Jai Prakash Associate Ltd

For petitioner company Advocate Shri R.P Agarwal appears, official liquidator Shri Bagri for Central Government through the office of R.D. He informs that supplementary affidavit on behalf of the Regional Director (N/R) pursuant to the previous direction of this tribunal has been filed. A copy of Affidavit is served to petitioner counsel.

Meanwhile third party counsel Sri Alok Srivastava files CA No. 12 of 2017 on behalf of the TPS Infrastructure Limited (being third party objector) making claim for of its dues of around Rs. 75.76 Lakhs and above plus commercial rate of interest towards supply of Machinery/ Equipment's supplied to and installed in the company and other purchase orders made by company. The learned counsel for Petitioner Sri R. P Agarwal vehemently opposed such filing of third party objection application on the question of its maintainability as per him petitioner is having no locus standii having less than 5% of total debts holders for filing such objection.

Notwithstanding above on a query being made by this tribunal on some provisions made in proposed scheme for taking care of such payable dues /payment of supply bills and other sundry payment

etc. He clarify such provision has already been made in respect of the liability of making payment by transferor/ transferee company.

Keeping in the view of above stated clarification we are of the view the present CA filed by a third party objector is not maintainable, being less than 5% holding of total debts of the company. We feel the remedy of the petitioner lies elsewhere hence the present CA is rejected but without prejudice to right of petitioner to agitate its claim before the appropriate forum in accordance with Law. Thus CA - 12/2017 stand disposed off.

The submissions of company petitioner as well official liquidator are heard. It is brought to our notice that NCLT, Mumbai Bench has pleased to sanction the scheme on behalf of transferee company by its order passed in last week. It is advised that copy of such order to be furnished.

Shri Bagri , OL also drawn our attention towards an order by the Allahabad High Court Order dated 11.10.2006 and 12.10.2006 passed in Misc Company Application NO. 4 of 1997 in the matter of U.P State Cement Corporation Ltd. which may have some bearing on the present case hence may be looked into for compliance to be made *asa* prerequisite for sanction of the scheme proposed.

The Learned Counsel for company petitioner fairly provides us a copy of order in the above stated matter which is to be placed on record by the registry for perusal of this tribunal.

Matter is part heard, to be listed on 28 February, 2017 for further hearing.



MR. H.P. CHATURVEDI, JDL. MEMBER *28/2/2017*