

National Company Law Tribunal

Allahabad Bench

CP NO. 22/2015

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 23.10.2017

NAME OF THE COMPANY: Lakshmi Cotysn Ltd

SECTION OF THE COMPANIES ACT: 433/434 of the companies act of 1956

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
<u>1.</u>	V.K. Singh	Advocate	Bank	V.K. Singh
<u>2.</u>	Ankit Kr. Singh	PCS	Respondent	Ankit

C.P. No. 22/2015

Shri V.K. Srivastava, Advocate for the petitioner. We have heard the submission of the representative of the respondent company on the issue.

Pursuant to a previous direction of this court dated 10.10.2017 cost of Rs. 1000/- is paid to the respondent counsel. Therefore, the present petition stands restored.

Further, the petitioner counsel files a memo stating such the petitioner has earlier filed a reply to the objection as raised by the Respondent on Maintainability of the present petition and prayed for that this court may convert the present Company (winding up) petition filed under the Companies Act, into a petition filed under the provisions of I & B Code. However, the learned counsel fairly concedes with present legal position that no such judicial precedent in this regard is readily available, since the Court Law is being developed.

Considering the such being the position, he further obtained necessary instruction from the petitioner Bank and is now not pressing for such reply but seeks liberty for withdrawal of the same. Since, the PCS for respondents express no objection for such withdrawal. Hence, the same is permitted.

Consequent thereto, the petitioner moves further application on behalf of the UCO Bank seeking for withdrawal of the present winding up petition filed by it (for making claim of Rs.35,15,234.69p together with interest accrued thereon) against the defaulter/ Respondent Company with a liberty to file a fresh petition as per the law and prescribed procedure before an appropriate

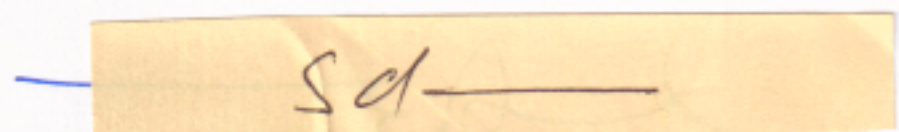
Forum. This may be understood that this court by its previous order dated 12.09.2017 has already taken care of the petitioner's interest and observed as such that the present petition is being disposed of not only on the ground of default but because of change in statutory position which makes the present petition as untenable. Therefore, the parties concerned are at liberty to move an appropriate application under the I & B Code before an appropriate Forum/Court.

We feel that our order dated 12.09.2017, in this regard still stands as we have only regularised the presence of the petitioner by restoring of the case in order to provide an opportunity of being heard to the petitioner. Further, the petitioner through its memo has also vindicated such statutory position. Therefore, we reiterate the same. The petitioner is always at liberty to file an appropriate application for Corporate Resolution/ Liquidation purpose under the I & B Code.

With such observation, the withdrawal memo filed by the petitioner is allowed. The present company petition stands finally disposed of.

Date: 23/10/2017

Typed by
P.K.Jyoti


H.P. Chaturvedi, Member(Judicial)