

National Company Law Tribunal

Allahabad Bench

CP NO 76/ND/2016

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 28.02.2017

NAME OF THE COMPANY: M/s Grand Infrahitech Pvt Ltd

SECTION OF THE COMPANIES ACT: U/S 397-398 of Company act of 1956

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

Order dated 28.02.2017

CP No-76/ND/2016 (M/s Grand Infrahitech Pvt Ltd)

The case is fixed today for passing an order on memo filed by the petitioners for withdrawal of the present company petition.

The Advocate Gaurav Tiwari Presents Today Memo of Withdrawal Dated 17.01.2017, Which has been duly signed by the petitioner no 1-petitioner no 4 and counter signed counsel by Shri Gaurav Tiwari.

The memo of withdrawal is annexed with supporting affidavits of petitioner's namely Mr Ramavtar Agrawal, Mr Rahul Agrawal, Mrs Chandani Agrawal and Mrs Assi Agrawal and Respondents the same has been duly notarised by the notary Shri Parmeshwar Dayal Advocate as per the statement made in the affidavits. The Petitioners have stated on oath that present company petition was filed because of some ill-advised received from their counsel, but later on they carefully considered present situation in the matter and are advised to withdraw present company petition. Accordingly, they have instructed their counsel for making withdrawal of the present case. The petitioners have also given their unconditional undertaking to this effect that they will not take any action on issues involved in the present petition, which may infer that it would

operate as Res Judicata among parties so far as issues involved in the present company petition are concerned.

We heard submission of learned counsel for the parties. The Learned counsel for respondent company contended such the case has already reached at the stage of final hearing and making such withdrawal could be done much earlier so as to avoid inconvenience which has already caused to the opposite party specifically to the outstation counsel of the respondent company. Thus he opposed to permission of withdrawal be granted unless inconvenience caused to him is not adequately compensated. Thus he pressed hard for dismissal of the present company petition summarily being non-meritorious, instead allowing it for withdrawal.

We carefully considered the above stated contention put forth by the counsel of both parties. It may be seen that the present matter is filed only in year of 2016. The company petitioners have made effort to submit fairly to this court that because of some ill/improper advice they received prompted them for filing the present company petition but now they express regret for the same through memo of withdrawal of the present case and in order to save valuable time of the court.

That apart, they have given an un-conditional undertaking to this effect that they would not agitate in future the issue involved in the present petition. Thus they have estopped themselves to proceed further against respondent in respect of subject matter of the present company petition which is evident of a bonafide gesture on their part.

It is also matter of record that on previous hearings both parties reported that some negotiation talks for settlement were going, but could not be reduced in writing that shows the respondent company equally shown its some interest for settlement through Negotiation out of court.

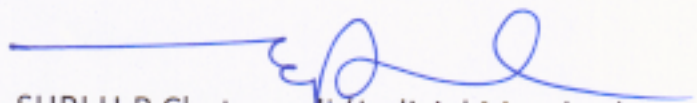
Hence it can't be conclusively held that it is one sided decision on the part of petitioners to make withdrawal of the present company petition. There might have developed some understanding between the parties out of the court. Thus it can't be said that withdrawal of present case would seriously Jeopardised the interest of the respondent company nor such withdrawal appears be detrimental to the interest of its shareholder or public at large.

In the light of above discussion, we find the present memo of withdrawal/petition deserve to be allowed. The inconvenience caused if any to the counsel for opposite party can be compensated by appropriate cost.

Hence withdrawal memo of present company Petition is conditionally allowed with cost of Rs 25,000 payable to the respondent. The amount of cost shall be payable by way of D.D to respondent company or through counsel within 2 weeks from receipt of copy of this order.

Accordingly, the company petition is dismissed as withdrawn. With further direction that compliance of payment of cost by the petitioner to be reported in the registry of this Tribunal at the earliest and in any case not later than 30 days from date of receipt of the copy of this order.

The matter stand disposed off.



SHRI H.P Chaturvedi (Judicial Member)

Dated-28.02.2017