

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CA No.62/2017
along with
CP NO. 221/Chd/2016
RT NO.98/Chd/Hry/2017**

Stup Consultants Pvt. Ltd.

...Petitioner

Versus

Egis India Consulting Engineering Pvt. Ltd.

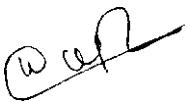
...Respondent

Present: Mr. Ranjit Saini, Advocate with Mr. Raghav Kapur,
Advocate for petitioner.

The company petition was filed in the Hon'ble Punjab and Haryana High Court, Chandigarh under Section 433 (e) of the Companies Act 1956 for winding up of respondent-company on the ground of its inability to pay the debt due to the petitioner. When the matter was listed before the High Court on 28.11.2016 notice was directed to be issued to the respondent-company to show cause as to why the petition be not admitted. In the meanwhile, the petition was transferred to the Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016.

The matter was listed before this Tribunal on 21.03.2017 and in view of the proviso to Section 5 of the aforesaid Rules the proceedings in the instant petition were adjourned *sine die*. The order dated 21.03.2017 is reproduced as under:-

"The instant petition was filed in the Hon'ble Punjab and Haryana High Court, Chandigarh under Section 433 (e) of the Companies Act 1956 for winding up of the respondent-company on the ground of its inability to pay the debt due to the petitioner. The file was taken up for the first time by the Hon'ble Punjab and Haryana High Court



on 28.11.2016 and notice was directed to be issued to the respondent-company for 21.03.2017 i.e. today to show cause as to why this petition be not admitted. There is also no report of filing of the affidavit stating therein the service of the respondent. This petition has been received from the Hon'ble High Court in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 as the petitioner has to comply with the provisions of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016

This petition is thus adjourned sine die as the petitioner has to comply with the provisions of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 read with the Companies (Transfer of Pending Proceedings) Amendment Rules, 2017 notified vide Notification dated 28.02.2017 requiring the petitioner to file appropriate application/requisite information, including details of the proposed Insolvency Professional in the Tribunal within a period of six months commencing from 15.12.2016, the date from which the aforesaid Rules came into force. In the meanwhile, if the requisite application/information including details of the proposed Insolvency Professional is filed, the matter be listed immediately thereafter. However, in case the requisite application/information is not filed within the prescribed period of six months, the instant petition shall stand automatically abated.

Copy of this order be sent to learned counsel for petitioner."

The petitioner has now filed CA No.62/2017 for taking up the file of CP No.221/2016 transferred to this Tribunal, with a prayer for return of the petition to be presented before the NCLT, New Delhi on the ground that the respondent-company has its Registered Office in New Delhi.

Having heard the learned counsel for the petitioner, it seems that the petitioner in fact had mentioned that the Registered Office of respondent-company is situated at Faridabad (Haryana) in the Memo of Parties as well as



in the relevant paragraph of winding up petition. Learned counsel for petitioner, however, vehemently contended that in the Memo of Parties the address of the respondent-company was described as Corporate Office and the Registered Office but as per averment in paragraph 3 of the petition there is categorical statement, that the Registered Office of the company is at Faridabad.

Learned counsel for the petitioner, however, submits that at Faridabad there is only Corporate Office of the Company but it has its Registered Office in New Delhi for which copy of master data of the Company has also been filed after moving CA No.62/2017. Learned counsel for petitioner, therefore, prays for withdrawal of the instant petition with liberty to seek appropriate remedy under the Insolvency and Bankruptcy Code, 2016 before the Adjudicating Authority or any other appropriate remedy in accordance with law. Accordingly, the prayer is allowed and the instant petition is dismissed as withdrawn with liberty aforesaid.

— Sd / —
(Justice R.P. Nagrath)
Member (Judicial)

May 24, 2017
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