

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

**CP NO. 176/2016
RT NO.28/2017**

IFCI Factors Ltd.

... Petitioner

Versus

Kew Industries Ltd.

... Respondent

Present: Mr. Vaibhav Sahni and Mr. Rahul Dev Singh, Advooates
for petitioner.
None for respondent.

Order

(Oral)

This case has been received by transfer from the Hon'ble Punjab & Haryana High Court, Chandigarh. It be entered in the relevant register.

This petition is filed for winding up of the respondent-company under Clause (e) of Section 433 of the Companies Act, 1956 on the ground of inability to pay debts of the petitioner. This petition has been transferred to the Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 which came into force w.e.f. 15.12.2016. Rule 5 of the said Rules reads as under:-

"All petitions relating to winding up under clause (e) of section 433 of the Act on the ground of inability to pay its debts pending before a High Court, and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules 1959 shall be transferred to the bench of the Tribunal established under sub-section (4) of section 419 of the Act, exercising territorial jurisdiction and such petitions shall be treated as applications under sections 7,8 or 9 of the Code, as the case may be, and dealt with in accordance with Part II of the Code.

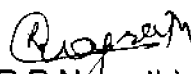
Provided that the petitioner shall submit all information, other than information forming part of the records transferred in accordance with Rule 7, required for admission of the petition under sections 7, 8 or 9 of the Code, as the case may be,

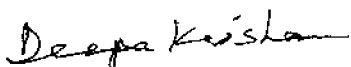
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including details of the proposed insolvency professional to the Tribunal within sixty days from date of this notification, failing which the petition shall abate."

Proviso of the aforesaid sub rule (1) of Rule 5 says that the petitioner was required to submit all the information in accordance with the Section 7 of Insolvency and Bankruptcy Code 2016, including details of the Proposed Insolvency Professional to the Tribunal within 60 days from the date of notification failing which the petition has to abate. It is not disputed that 60 days period expired on 14.02.2017. Admittedly, respondent had not been served with the notice while the case was pending before the Hon'ble Punjab & Haryana High Court. Therefore, the instant petition would stand abated. Ordered accordingly. This is without prejudice to the rights of the petitioner to initiate the appropriate proceedings under the Insolvency and Bankruptcy Code, 2016, if permissible.


(R P Negrath)
Member (Judicial)


(Deepa Krishan)
Member (Technical)

February 15, 2017


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