

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

**CP NO. 44/Chd/2017  
RT NO.41/Chd/Pb/2017**

Zhejiang Chun An Foreign Trade Co. Ltd. ...Petitioner

Versus

Modern Insecticides Ltd. ...Respondent

Present: None.

There is no representation from either side though the learned counsel for the parties had put in appearance on the previous date. This 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 for its inability to pay the debt due to the petitioner. The petition was received by the Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016.

Learned counsel for petitioner had filed his affidavit dated 02.03.2017 stating therein that the notice of the petition was sent on 30.09.2016 to the respondent-company by Registered Post. With this affidavit the learned counsel for petitioner attached copy of the notice, and the Postal Receipt showing despatch of registered article. It was stated in the affidavit further that the notice sent at the registered office of the company is deemed to be proper service in terms of Rule 32 of the Companies (Court) Rules, 1959. The perusal of the order of the Hon'ble High Court would show that the file was first taken up on 29.02.2016 when

*(Signature)*


notice was directed to be issued to the respondent-company to show cause. The matter was then taken up on 19.09.2016 and learned counsel for petitioner sought more time to effect service by stating that the respondent-company has changed the address. In the meanwhile, the petition was transferred to the Tribunal from the Hon'ble High Court in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016. It is thus apparent that the matter was still at the stage of service of respondent while it was pending in the Hon'ble High Court. Thus the petition is to be treated as application under Sections 7,8 or 9 of the Insolvency and Bankruptcy Code, 2016 as the case may be and the petitioner has to supply requisite information including details of the proposed Insolvency Professional.

In view of above, the petition is 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



-3-

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.

  
(Justice R.P. Nagrath)  
Member (Judicial)

March 21, 2017  
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