

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

**CP NO.238/2016
RT NO. 26/2017**

Arun Kumar Agarwala

...Petitioner

Versus.

Swan Aluminiums Pvt. Ltd.

...Respondent

Present: Mr. Yash Pal Gupta, Advocate for petitioner.
None for respondent.

Order

(Oral)

This petition was filed in the Hon'ble Punjab and Haryana High Court Chandigarh. Before the file could be listed in the Hon'ble Punjab and Haryana High Court, the matter was transferred to this Tribunal and listed for the first time on 17.01.2017.


This is a petition for winding up of the company under Section 433 (e) of the Companies Act, 1956 on the ground of inability of respondent-company to pay its debts.

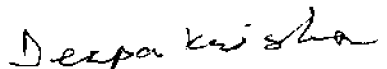
We have heard the learned counsel for the petitioner. The instant petition has been transferred to the Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 which says that after transfer of the case, the matter has to be dealt with in accordance with Part II of the Insolvency and Bankruptcy Code, 2016 and these matters are now to be treated as applications under Sections 7,8 or 9 of the Code. The proviso to this Rule provides 60 days period from the date



of notification i.e. 15.12.2016 to comply with the provisions of Section 7, 8 or 9 of the Code, failing which the petition has to abate.

The instant petition has been filed by the operational creditor who has not filed information as required under Rules 8 or 9 of the Insolvency and Bankruptcy Code, 2016 within a period of 60 days therefrom hence the proceedings in this petition stands abated. Ordered accordingly. This would be without prejudice to the rights of the petitioner, if any, under Insolvency and Bankruptcy Code, 2016, if the same is permissible.


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


(Deepa Krishan)
Member (Technical)

January 16, 2017

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