

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

**CP NO. 175/2016
RT No. 26/2017**

Cholamandlam Investment & Finance Co. Ltd. ...Petitioner.

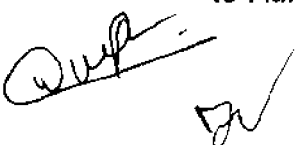
Versus.

Unifam Insurance Services Pvt. Ltd. & Ors. ...Respondents.

Present: - Ms. Puja Chopra, Advocate for petitioner.
None for respondents.

This petition was filed before the Hon'ble Punjab and Haryana High Court where it was last listed on 18.10.2016. The learned counsel for the petitioner prayed for adjournment in order to file an affidavit stating therein that the value of the mortgaged property is less than the amount which is to be recovered. The matter was adjourned to 08.11.2016 and further adjournment was granted for 20.01.2017 for filing the compliance affidavit. In the meanwhile, the matter was received by transfer in this Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceeding) Rules, 2016 which came into force w.e.f. 15.12.2016. When the matter was listed before this Tribunal on 8.02.2017, it was observed as under :-


"The instant petition was filed by the creditors for winding up of the respondent-company in terms of Section 433 (e) of the Companies Act, 2013 on the ground of inability to pay its debts. Affidavit regarding service of the respondent was not filed and the learned counsel for the petitioner submits that service of the respondent has still not been effected. In terms of proviso to Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016

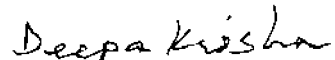
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such petitions which are received by transfer have to be dealt with in accordance with Sections 7, 8 or 9 of Insolvency & Bankruptcy Code, 2016, as the case may be and to furnish details of the proposed Insolvency Professionals to the Tribunal within 60 days from date of the notification dated 15.12.2016, failing which the petition shall abate unless the application under aforesaid proviso is made. So, the matter be posted for further proceedings to 17.02.2017."

It was thus admitted that the service of the respondent had still not been effected. Therefore, in terms of proviso to Rule 5 of the aforesaid rules, the petition stands abated. Ordered accordingly. This is, however, without prejudice to the right of the petitioner to take appropriate steps in accordance with the law or the provisions of the Insolvency and Bankruptcy Code, 2016.


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


(Deepa Krishan)
Member (Technical)

February 17, 2017

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