

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

**CP NO. 112/2014
RT NO. 15/2017**

Date: 02.03.2017

**Coram: Hon'ble Mr. Justice R.P. Nagrath, Member (Judicial).
Hon'ble Deepa Krishan, Member (Technical)**

M/s. Taj Pharmaceuticals Ltd.

...Petitioner.

Versus.

Scott Edil Pharmacia Ltd.

...Respondent

Present: - None.

ORDER

R.P. Nagrath, J., Member (Judicial) (Oral):

The instant petition was filed in the Hon'ble Punjab and Haryana High Court under Section 433 (e) of the Companies Act, 1956 for winding up of the respondent-company for its inability to pay the debts due to the petitioner. The matter was listed before the Hon'ble High Court on 01.07.2014 and the learned counsel for the petitioner had prayed for some time to place on record court cases between the parties as also any other document to clearly show the acknowledgement of debt. The matter was adjourned sine die for doing the needful. However, with issuance of Notification dated 07th December, 2016, the Companies (Transfer of Pending Proceedings) Rules, 2016 (for brevity, hereinafter referred to as the "Rules") which came into force w.e.f. 15.12.2016, the instant petition has been transferred to the

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Tribunal in terms of Rule 5 of the said Rules. The matter was taken up by the Tribunal on 18.01.2017 and notice of the petition was directed to be issued to the counsel for the petitioner. As per office report, notice has been served upon the learned counsel for the petitioner but there is no representation.

The instant petition was received by transfer in this Tribunal in terms of Rule 5 of the "Rules" which 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, including details of the proposed insolvency professional to the Tribunal within sixty days from date of this notification, failing which the petition shall abate."

Answer
[Signature]

The petition was thus to be treated as application under Sections 7, 8 or 9 of the Insolvency and Bankruptcy Code, 2016 and the petitioner was required to file the requisite information including details of the insolvency professional but no such information has been filed. Therefore, the proceedings in the instant petition would stand automatically abated on the expiry of 60 days period w.e.f. 15.12.2016, the date when the aforesaid Rules came into force. The instant petition, therefore, shall stand abated. This is, however, without prejudice to the right of the petitioner to avail of the alternative remedy if permissible under the law. The file be consigned.

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

(Deepa Krishan)
Member(Technical)

March 02, 2017

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