

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

**CP NO. 08/2016
RT No. 31/Chd/HP/2017**

Date: 06.03.2017

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

M/s. Avantika Stainless Steel Pvt. Ltd.

...Petitioner

Versus.

M/s Gilvert Ispat Limited.

...Respondent

Present: Mr. Atul Kaushik, Advocate for petitioner.
None for the respondent.

ORDER

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

Mr. Atul Kaushik, Advocate has filed Memo of Appearance for the petitioner.

The instant petition was filed in the Hon'ble High Court of Himachal Pradesh at Shimla 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 case was still at the stage of service of respondent and the amended Memo of Parties had been filed. In the meantime, the petition was transferred to this Tribunal in terms of Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 (for brevity, hereinafter referred to as 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."

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 shall 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, stands abated. This is, however, without prejudice to the right of the petitioner to avail of the

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alternate remedy, if permissible, under the law. The file be consigned.

— Sd/ —
(Justice R.P.Nagrath)
Member (Judicial)

— Sd/ —
(Deepa Krishan)
Member (Technical)

March 06, 2017.
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