

**NATIONAL COMPAN LAW TRIBINAL  
CHANDIGARH BENCH, CHANDIGARH**

**CP No.167/2016  
RT No.42/2017**

Kashiratan Enterprises .....Petitioner  
Versus  
Jhamb Cotton Pvt.Ltd. ....Respondent

Present:: Ms.Nupur Choudhary, Advocate for petitioner.  
Mr.Akaant Kumar Mittal, Advocate for Mr.Gaurav Chopra, Advocate for  
respondent.

Affidavit for Mr.Gaurav Chopra, counsel for the respondent dated  
15.3.2017 has been filed in response to the affidavit of the petitioner.

This petition was filed under section 433(e) of the Companies Act, 1956  
on the grounds of its inability of respondent company to pay the debt. The  
petition was received by transfer from the High Court of Punjab and Haryana.

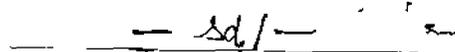
Having heard the learned counsels of the parties, we are of the view that  
the petition is required to be sent back to the High Court for further  
proceedings. We say so for the reason that in this petition for winding up, the  
respondent was served with notice before coming into force of the Companies  
(Transfer of Pending Proceedings) Rules, 2016 as notified on 07.12.2016.  
These rules came into force with effect from 15.12.2016. As per the Rule 5 of  
the said Rules, the company petitions for winding up on the grounds under  
section 433(e) of the Companies Act, 1956 are to be transferred to the Tribunal  
where the petition has not been served on the respondent before coming into  
force of the Act. It is admitted in the affidavit filed today that the respondent

*Deepak*  
*Deepak*

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was served in the petition on 04.10.2016 much before the coming into force of the aforesaid Rules. The record of this petition be therefore sent back to the Hon'ble High Court for further proceedings.

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

  
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(Deepa Krishan)  
Member (Technical)

March 15, 2017

  
Sabu