

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

**CP NO. 78/2016
RT No. 56/2017**

Date: 28.02.2017

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

PPG Asian Paints Pvt. Ltd. ...Petitioner.

Versus

Automobile Kapoor's India (Pvt.) Ltd. ...Respondent

Present: None for petitioner.
Mr. Karanyog Singh Riar, Advocate for Mr. Aalok Jagga,
Advocate for the respondent.

ORDER

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

Notice to the counsel for the petitioner was issued for further proceedings.

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. When the matter was listed before the Hon'ble High Court for 25.04.2016, it was directed to issue notice to the respondent-company for 09.08.2016. The matter was then taken up on 27.09.2016 and the Hon'ble High Court observed that the affidavit of service of the respondent was not filed by the counsel for the petitioner. No further affidavit of service of respondent

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was filed thereafter.

We have heard the Learned counsel for the respondent and find that the proceedings in the instant case shall stand abated.

The instant petition was received by transfer in 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:-

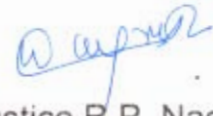
"All petitions relating to winding up under clause (e) of Section 433 of the Act on the ground of inability to pay its debts pending before a High Court, and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to 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

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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, stands 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)

February 28, 2017


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