

BENCH-I

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

CA(IB) No.531/KB/2017

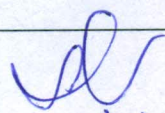
**Present: 1. Hon'ble Member (J) Shri Vijai Pratap Singh
2. Hon'ble Member (J) Shri Jinan K.R**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 09th January 2018, 10.30 A.M

Name of the Company		Kusum Products Limited	
Under Section		BIFR U/R 11	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. J. BATWAI, BLS

Petitioner


9/1/2018

ORDER

Ld. Counsel for the applicant is present.

The applicant has filed this Miscellaneous Application mainly under Rule 11 of the National Company Law Tribunal Rules, 2016(NCLT Rules, 2016) read with Sick Industrial Companies (Special Provisions) Repeal Act, 2003 and Insolvency and Bankruptcy Code, 2016..

As per Gazette Notification , SICA has been repealed and BIFR and AAIFR stand dissolved with effect from 01/12/2016 and the Insolvency and Bankruptcy Code, 2016 has come into effect. As per Government Notification all proceedings pending before the BIFR shall stand abated with a liberty to file fresh petition within 180 days before the Adjudicating Authority.

This Misc. Application has been filed on the strength of order of revival plan passed by BIFR dated 24/01/2012 after the expiry of the statutory time limit of 180 days. So the application is not maintainable on this ground.

Ld. Counsel for the applicant has raised that the order passed by the Hon'ble Delhi High Court in W.P. (C)12152/2016 dated 17/08/2017 which have held that *in terms of Section 4(b) of the Repeal Act, 2003 has been amended and two provisios have been insergted after the second proviso, one of which prescribes that in schemes sanctioned under sub-Section (4) or any scheme under implementation under sub-Section (12) of Section 18 of SICA, shall be deemed to be the approved resolution plan under sub-Section (1) of Section 31 of the Insolvency and Bankruptcy Code, 2016 and the same shall be dealt with, in accordance with provisions of Part II of the said Code.*

Ld. Counsel for the appellant has stated that scheme has already been sanctioned by the BIFR. Therefore, the scheme shall be deemed to be an approved resolution plan under the I & B Code and above provisions will ultimately lead to the company in liquidation. Ld. Counsel further stated that as per approved resolution plan the scheme sanctioned is already effective upto 31/03/2018. Therefore, at this stage no order is needed from this Tribunal. Petition is not maintainable under Rule 11 of NCLT Rules, 2016 or any of the provisions of Sick Industrial Companies (Special Provisions) Repeal Act, 2003 and Insolvency and Bankruptcy Code, 2016.



(Jinan K.R.)
Member (J)



(V.P. Singh)
Member (J)