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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) No. 661 OF 2015  
IN  
COMPANY APPLICATION (L) No. 47 OF 2015  
IN  
COMPANY PETITION No. 413 OF 2014  
WITH  
NOTICE OF MOTION (L) No. 2390 OF 2015

Ingram Micro India Pvt. Ltd. ... Appellants / Applicants  
Vs.  
Nirmal Datacomm Pvt. Ltd. & Anr. ... Respondents

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Mr. Kedar Wagle, for the Applicants / Appellants.

Mr. Rahul Oak, for Respondent No. 1.

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CORAM : V. M. KANADE, &  
Dr. SHALINI PHANSALKAR-JOSHI, JJ.  
DATE : SEPTEMBER 28, 2015

PC.

1. Heard the learned counsel appearing for the Appellants / Applicants and the learned counsel appearing for the Respondents. The Appellants are aggrieved by an order passed by the learned Single Judge dated 31.7.2015. By the said order, the learned Single Judge was pleased to recall the winding up order which was passed on

20.12.2014 and restored the petition to be board to the pre-admission stage, subject to certain condition, imposed on the Respondent-Company, viz. on the Company depositing an amount of Rs.75,000/- within a time bound schedule.

2. The learned counsel appearing on behalf of the Appellants submitted that the impugned order of recalling the winding up order could not have been passed under Section 466 of the Companies Act, 1956. He invited our attention to the said provision. Secondly, he submitted that the Company despite being served with statutory notice and also the company petition, when the matter was on board the Respondent-Company remained absent deliberately, and therefore, *exparte* order of winding up was passed, and thereafter advertisement was also issued. He submitted that under these circumstances the winding up order could not have been passed.

3. In our view, the learned Single Judge has recalled the order and has given cogent reasons for doing the same and noted the reason that explanation given by the Director, on which the *exparte* order was passed. The learned Single Judge, thereafter, noted that after advertisement was issued, no claim was raised by any party.

Under these circumstances, the order of winding-up was recalled. The impugned order does not say that the learned Single Judge passed the order under Section 466 of the Companies Act, 1956. It is always open for the learned Single Judge to review his earlier order by giving cogent reasons for recalling the earlier order. The learned Single Judge has also directed the Respondent-Company to deposit an amount of Rs. 75,000/- in a time bound schedule, failing which the company petition shall stand admitted without any further reference to the Court. We do not see any reasons to interfere with the impugned order. Appeal, therefore, is dismissed. Interim order to continue till the next date before the learned Single Judge. The learned Single Judge may vacate the interim order passed by this Court, on merits and in accordance with law.

4. In view of dismissal of the appeal, Notice of Motion (L) No. 2390 of 2015 filed therein does not survive and is accordingly disposed of.

Sd/-

[Dr. SHALINI PHANSALKAR-JOSHI, J.]

Sd/-

[V. M. KANADE, J.]

Vinayak Halemath

CERTIFICATE

Certified to be true and correct copy of the original signed  
Order.