

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CAPP-36-2015 (O&M)

Date of Decision: 14.10.2015

Blue Sky Brandcomm Asia Pvt. Ltd.

..Appellant

Versus

S.Tel. Pvt. Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present : Mr. R.S.Rai, Sr. Advocate with
Mr. Ashu M.Punchhi, Advocate, for the appellant.

Mr. Amandeep Singh Talwar, Advocate, for respondent No.1.

Mr. Alok Kumar Jain, Senior Panel Counsel,
for respondent No.2-Union of India.

Mr. Manish Jain, Advocate, for secured creditor(s).

S.J.VAZIFDAR A.C.J. (Oral)

This is an appeal against the order and judgment of the learned Company Judge dated 04.05.2015 disposing of the appellant's petition for winding up under Sections 433 and 434 of the Companies Act, 1956 as infructuous in view of Company Petition No. 54 of 2014 titled as *Huawei International Pvt. Ltd. v. S.Tel. Pvt. Ltd.* filed by another creditor having been admitted.

2. The admission of one petition for winding up does not render other winding up petitions infructuous. Each petitioner is entitled to seek winding up of the company and accordingly the admission of his petition. In the event of the petition being admitted the requirement of having the same published may be dispensed with. The learned Company Judge has protected the appellant by granting it liberty to get the petition revived in case the

company comes out of admission. That would not however adequately secure the appellant in all circumstances.

3. We had passed an interim order dated 25.08.2015 in respect of the amounts that were likely to be paid by the DoT, Government of India to the company. Our attention, however, has been invited to the orders of the DRT dated 16.06.2015 and 18.08.2015 in respect of the same amounts. We are also informed that the DoT has challenged the order passed by the Telecom Disputes Settlement & Appellate Tribunal (TDSAT) before the Supreme Court in Appeal (Civil) No. 8484 of 2015. The impugned order is, therefore, set aside. The petition shall be heard by the learned Company Judge on merits at the stage of admission. The petition shall be placed for admission before the learned Company Judge on 16.11.2015. It will be open to the appellant to seek the interim orders before the learned Company Judge.

4. The interim order dated 25.08.2015 shall continue upto the admission of the petition. It will be open to the learned Company Judge to pass any interim orders including with respect to the said amounts without being influenced by our order dated 25.08.2015. Needless to add that the effect of the orders of the DRT will also be considered by the learned Company Judge.

To be heard alongwith Company Petition No. 54 of 2013.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

14.10. 2015

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(TEJINDER SINGH DHINDSA)
JUDGE