**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CP No. 155 of 2006 (O&M)
Date of decision: 09.02.2015

M/s Nirvan Tech Consultants

.. Petitioner

versus

Motorola India Private Limited

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Singh Talwar, Advocate for the petitioner.

Mr. R. Jawahar Lal, Advocate, for the respondent.

Rajesh Bindal, J.

The present petition has been filed seeking winding up of the respondent-company on the ground of its inability to pay the admitted debt. The petitioner firm had been providing services to the respondent company as finder/consultant in terms of the agreement dated 01.04.2001. Certain fixed percentage of commission was payable to the petitioner as per the terms in the agreement. As on today, the stand of the respondent is that whatever amount of commission was due to the petitioner, the same has already been fully paid/cleared. As regards the statement made by learned counsel for the respondent that no amount of commission is due with reference to the agreement referred to in the present petition, the respondent company shall provide the details of the payment received from BSNL and correspondingly the amount of commission paid to the petitioner, within four weeks.

The second issue is regarding issuance of certain TDS certificates on account of income tax deducted at source and further as to whether the respondent-company is liable to pay the service tax on the bills raised by the petitioner.

As far as the issuance of TDS certificate is concerned, learned

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counsel for the respondent submitted that the respondent company is ready and willing to issue duplicate certificates if earlier supplied have been misplaced or not received by the petitioner. For the purpose in my opinion, the petitioner can depute his representative, who can visit the office of the respondent company along with the details and whichever TDS certificates have not been received by the petitioner company, the duplicates thereof shall be issued within a period of one month after the details are furnished to the petitioner.

As far as issue regarding the claim of the petitioner for service tax on the bills raised, reference was made to the terms of the agreement, and amendments made therein subsequently. To opine finally on that issue, interpretation of this agreement and the amendments made therein would be required which is not possible in present summary jurisdiction. Hence, leaving that claim open with liberty to the petitioner to avail of his appropriate remedy, the present petition is disposed of.

09.02.2015 (Rajesh Bindal)
Kumud Judge

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