

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No. 206 OF 2011

ORDER:

This Company Petition is filed invoking the provisions of Sections 433(e)(f), 434(1)(a) and 439 of the Companies Act, 1956, alleging the inability of the respondent-company to pay the admitted debt of Rs.25,06,724/-.

The Company Petition was admitted on 12.03.2013. As against the same, the respondent-company filed an appeal in O.S.A.No.12 of 2013 on the file of Division Bench of this Court and the Division Bench of this Court had granted interim stay on 03.01.2014 in O.S.A.M.P Nos.268 of 2013 and 2 of 2013, on condition that the petitioner pays a sum of Rs.20,00,000/- in two instalments. Questioning the order of imposing the condition of depositing of Rs.20,00,000/-, respondent-company approached the Supreme Court and filed S.L.P.Nos.5486-5487 of 2014. The Supreme Court had dismissed the same refusing to interfere with the order of the Division Bench of this Court and modified the order of the Division Bench directing the respondent company to deposit the amount as directed by the Division Bench with the Registry of this Court. Subsequent to the disposal of the said S.L.P, the learned counsel for both the parties arrived at an out of Court settlement on 21.01.2015 and pursuant to the same, the respondent company had paid a sum of Rs.12,00,000/- (Rupees twelve lakhs only) as full and final settlement. A copy of the full and final settlement in the form of an undertaking signed by one Viswanath Trivedi, Proprietor, K.K. Traders, Kanpur placed on record along with the payment schedule. In terms of the same,

petitioner had also agreed to withdraw the Company Petition on payment of Rs.12,00,000/-. In the said undertaking, it is also recorded that the petitioner is satisfied with the settlement arrived at between the parties.

In the light of the above settlement, no useful purpose would be served by keeping the Company Petition pending and as there being no other creditors supporting the winding up the respondent-company, the Company Petition is closed. However, in the light of the compromise arrived at between the petitioner and the respondent company which fact is admitted by the learned counsel for the petitioner and as the Company petition is being closed on account of the settlement, the amount which has already been deposited with the Registry of this Court vide D.D.No.270826 dated 11.09.2015, pursuant to the order dated 03.01.2014, passed by the Division Bench of this Court in O.S.A.M.P Nos.268 of 2013 and 2 of 2013 in O.S.A.No.12 of 2013, shall be made over to the respondent-company. The Registry shall issue a crossed cheque for Rs.20,00,000/- (Rupees twenty lakhs only) in favour of the respondent-company after obtaining the proper acknowledgement from the respondent-company.

With the above observations, the Company Petition is closed.

CHALLA KODANDA RAM, J

Date:13.10.2016,
Gk.

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