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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.APP. 1/2016 & CM No. 5044/2016**
IN TRADING PVT. LTD Appellant

Through: Mr. Sanchit Garg, Advocate.

versus

SABOO COATINGS LTD Respondent
Through: appearance not given.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **24.05.2016**

The appellant is aggrieved by order of a Single Judge dated 22.01.2016 in Co. Pet No. 365/2013. During the course of the proceedings, the entire amount of ₹42,41,247/- was directed to be deposited in Court. The appellant has complied with the order and deposited the sum with the Registrar. The respondent/Company had in the meanwhile filed a civil suit for the recovery of the sum of ₹52,96,402/- which included a principal sum of ₹42,41,247/- and interest thereon. It was suggested to the respondent's counsel that, in the overall circumstances of the case and given that the amount demanded at the time of filing of winding up proceedings has since been deposited, the appropriate course would be to relegate the parties to the pending suit which may be adjudicated upon in accordance with

law. Learned counsel sought instructions and agreed that the winding up proceedings be permitted to be withdrawn and the present appeal disposed of subject to the amount (₹42,41,247/-) lying as deposit with this Court being deposited with the concerned competent Court trying the suit i.e. the Court of Civil Judge (SD), Chandigarh.

In these circumstances, subject to the appellant depositing the same amount of ₹42,41,247/- in the pending suit (Civil suit no. 676/2015) titled *M/s Saboo Coatings Vs. M/s Intrading Private Ltd.* within two weeks from today, the winding up proceedings in CP No. 365/2013 are disposed of as withdrawn.

Consequently, the order of the Single Judge shall stand vacated. CP No. 365/2013 is dismissed as withdrawn. The Company appeal no. 1/2016 is accordingly disposed of as infructuous. These orders are subject to the appellant complying with the present directions for which party shall be present before the Registrar on 30.05.2016 enabling the withdrawal of the amounts deposited. The amount be deposited in the Chandigarh Court not later than on 07.07.2016. The affidavit of compliance shall be filed on or before 14.07.2016, in this Court.

The appeal and CP No. 365/2013 are disposed of in above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MAY 24, 2016

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