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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.A(SB) 26/2015**

RISHU MONGA

..... Appellant

Through: Mr. Mukul Talwar, Sr. Advocate with
Mr. Aman Bhalla and Ms. Aastha
Dhawan, Advocates

versus

BRANDS ACADEMY PVT.LTD. & ORS

..... Respondent

Through: Mr. Bijender Singh and Ms. Vidushi,
Advocates for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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10.11.2016

Co. Appl. 1256/2015 (Delay)

The present application has been filed under Section 10F of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959, for condonation of delay of 23 days in filing the appeal.

For the reasons stated in the application, the delay of 23 days in filing the appeal is condoned.

The application is disposed of.

CO.A(SB) 26/2015

The present appeal under Section 10 F of the Companies Act, 1956 assails order dated 27th January 2015 passed by the Company Law Board in CP No.5(ND)/15 filed by the appellant herein under Sections 397 and 398 read with Section 402 and 403 of the Companies Act, 1956.

A plain reading of the impugned order dated 27th January 2015 clearly shows that it has been passed at an interim stage. Mr. Talwar, learned senior counsel appearing on behalf of the appellant states that since the company

petition itself is ripe for hearing before the Company Law Board (now National Company Law Tribunal), they would not press this appeal if this Court were to clarify that the finding of fact arrived at in paragraph 6 of the said impugned order dated 27th January 2015 was essentially a prima facie view and would not influence the National Company Law Tribunal in any manner at the stage of final determination of the said Company Petition No.5(ND)/15.

Learned counsel appearing on behalf of the respondents does not oppose this submission made on behalf of the learned senior counsel appearing on behalf of the appellant.

As afore stated, at an interim stage, the competent Court determines an application for interim relief on the basis of a prima facie view and that view may or may not be conclusive in relation to the final determination of the dispute. The order passed by a Court at an interim stage of the proceedings does not operate as res judicata at the time of final determination of lis between the parties. In this view of the matter, the present appeal is disposed of clarifying that the expression of opinion in relation to the finding of fact as incorporated in paragraph 6 of the said impugned order dated 27th January 2015 will not in any manner influence the outcome of the said company petition No.5(ND)/15, instituted on behalf of the appellant, at the final stage.

With the above clarification, the appeal is disposed of.

A copy of this order be given dasti.

SIDDHARTH MRIDUL, J

NOVEMBER 10, 2016

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