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

**Date of decision: 03.02.2016**

+ CO.PET. 78/2016 & CA Nos. 323-325/2016

KUBER ALLOYS

..... Petitioner

Through: Mr Ashok Kumar Juneja & Mr Mithlesh  
K. Singh, Advs.

versus

UTTRANCHAL ISPAT PRIVATE  
LIMITED & ORS.

..... Respondents

Through

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER (ORAL)**

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1. This is a petition, essentially, filed under Section 433(e) of the Companies Act, 1956 (in short the 1956 Act). The petitioner claims that it had supplied Sponge Irons to respondent no.1 company. In respect of the material supplied, the petitioner claims that invoices were generated between 11.10.2011 and 30.10.2012. The petitioner claims that against the invoices, the aggregate amount that the respondent No. 1 company was required to pay, is a sum of Rs. 4,54,81,419.76/-. It is the petitioner's case that respondent no.1 company had provided requisite C-Forms in respect of the material sold to it.

2. It is also the petitioner's case, since payments were not made, a demand notice dated 30.07.2014 was issued under Section 434 of the 1956 Act.

2.1 Learned counsel for the petitioner says that despite service of demand

notice, no reply has been received.

3. A perusal of the demand notice dated 30.07.2014 would show that it has been served on respondent no.1 company at the following address: A-350, Gali No. 5, Meet Nagar, Wazirabad Road, Sahadra Road, Delhi – 110 094. As per the notice, the aforesaid address happened to be the registered office of respondent no.1 company.

3.1 However, the memo of parties filed with the petition depicts that the registered office of respondent no.1 company is located at: IX/3580, Near Jain Mandir, Dharampura, Gandhi Nagar, Delhi – 110 031.

3.2 In support of what is shown in the memo of parties, the learned counsel for the petitioner relies upon the information uploaded on the MCA's website, apparently, by respondent no.1 company.

4. I have asked the learned counsel for the petitioner as to whether he has filed the requisite document to establish that when the demand notice dated 30.07.2014 was issued, the registered office of the respondent No. 1 company was located at the address given in that notice. Learned counsel for the petitioner says that no such document has been filed.

4.1 To be noted, this was the precise issue which the registry had also raised at the time of, filing of the petition; despite which, the petitioner's counsel did not take the trouble of filing the requisite documents.

4.2 Therefore, the petition, as filed today, is deficient in material particulars.

4.3 The demand notice as per the provisions of section 434 of the 1956 Act has to be delivered at the registered office of the concerned company.

5. Besides what is indicated above, the amounts which are claimed with

respect to the 79 invoices span a period of nearly one year i.e. 11.10.2011 to 30.10.2012. This petition has been filed in December, 2015.

5.1 Learned counsel for the petitioner says that a suit has also been filed for the very same purpose. It is his contention that the said suit was filed in November, 2015.

5.2 While I do not wish to comment on this aspect, at this stage, the petitioner does seem to have a hurdle its way in the form of limitation.

6. At this juncture, learned counsel for the petitioner seeks leave to withdraw the petition and the pending applications, with liberty to file a fresh petition.

7. Accordingly, the petition and the pending applications are dismissed as withdrawn, with liberty as prayed for.

**RAJIV SHAKDHER, J**

**FEBRUARY 03, 2016**

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