

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**COMP No. 2 of 2014**

M/s Kasa Anlagen India Pvt. Ltd. A Company Incorporated Under The Companies Act, 1956 having its Registered Office At 18, SIDCO Industrial Estate, Thirumudivakkam, Chennai, 600044

---- Petitioner

Versus

M/s Mcchem Anlagen Energies & Infratech Pvt. Ltd. Incorporated under the relevant provisions Of The Companies Act, 1956, Having Its Registered Office At 16/22, Uttar Gangorti Commercial Complex, Supela, Bhilai, Distt. Durg, 490023 (C.G.)

---- Respondent

For Petitioner : Mr. Kishore Bhaduri, Advocate.
For Respondent : Ms. Sharmila Singhai, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/11/2017**

(1) This Company Petition has been filed for winding up under Section 437 read with Section 433(e) and (f) and Section 434 of the Companies Act, 1956.

(2) This Court has issued pre-admission notice to the respondent on 06.03.2014. As per office record, notice was said to be un-served till 27.06.2017, and ultimately this Court on 30.06.2017 issued fresh to the respondent, which was duly served to the respondent on 08.09.2017.

(3) Now preliminary objection has been raised by the respondent along with notification dated 7th December, 2016 issued by Ministry of Corporate Affairs stating that all the petitions relating to winding up which are pending before the High Court as on 15.12.2016 where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the National Company Law Tribunal.

(4) Replying to the preliminary objection, Mr. Bhaduri, learned counsel for the petitioner submits earlier notice issued pursuant to the order of this Court dated 06.03.2014 was not claimed by the respondent and it was also intimated to the respondent on 27.06.2014, therefore, respondent is deemed to have been served before 15.12.2016.

(5) Ms. Singhai, counsel for the respondent would submit that since the pre-admission notice has not been served on the respondent, therefore, this Court has issued fresh notice to the respondent on 30.6.2017, and as per postman endorsement, the office was found locked on 25/26-01-2014, as such the original petition has been reached to this court with the endorsement, therefore, it cannot be said that petition has been served on the respondent before 15.12.2016.

(6) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone through the record with utmost circumspection.

(7) Since in this case as per office record of the Registry of this Court, petition has not been served on the respondent on or before 15th December, 2016 and notice is said to have been served as per report to the respondent only on 8.9.2017, therefore, as per notification dated 7th December, 2016, this company petition is directed to be transferred to the National Company Law Tribunal having jurisdiction over the matter.

(8) Accordingly, the company petition stands finally disposed of. The parties are at liberty to proceed further.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-