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

+ **CS(COMM) 175/2017**

**MANGLA APPARELS INDIA PVT LTD** ..... Plaintiff  
Through: Mr. Vaibhav Kush, Adv. for Mr.  
Narendra Kalra, Adv.

**Versus**

**JDS APPARELS PVT LTD** ..... Defendant  
Through: Mr. Abhishek Kumar, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**27.04.2018**

1. Mr. Abhishek Kumar, Advocate appears on behalf of the Resolution Professional Mr. Arvind Kumar Agarwal appointed by the National Company Law Tribunal (NCLT) qua the defendant. He states (i) that the moratorium with respect to the defendant is now no longer existing but no resolution plan with respect to the defendant has been filed and the application for liquidation of the defendant has been moved before the NCLT and which is listed on 4<sup>th</sup> May, 2018; (ii) that since no resolution plan has been filed, liquidation is imminent; (iii) that he as an Advocate for the Resolution Professional had stopped appearing since in the interregnum between the completion of Corporate Insolvency and Resolution Process and liquidation, the Resolution Professional has no authority; (iv) that for this reason, the Resolution Professional and he as the Advocate for the Resolution Professional have no authority even today; (v) that once  
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liquidation has been ordered, the plaintiff if has not already filed his claim, may file it before the Liquidator of the defendant.

2. I have thus enquired from the counsel for the plaintiff, what purpose will be served in adjourning the present suit as the remedy of the plaintiff in any case is before the Liquidator of the defendant.

3. Mr. Vaibhav Kush, Advocate who is now appearing for the plaintiff states that he is proxy counsel and the main counsel Mr. Narendra Kalra, Advocate will have to be consulted and seeks adjournment.

4. Suits cannot be adjourned and kept pending in this fashion. If the main counsel chooses not to appear and send proxies who are not good and who do not know the law or the facts, the Courts cannot be used to keep the claims pending and to keep on listing the suits repeatedly.

5. It is quite evident from the statement aforesaid and there is no reason to disbelieve the same that no further proceedings are possible in this suit.

6. In fact, Mr. Abhishek Kumar, Advocate states that the plaintiff has already filed the claim before the Resolution Professional and the counsel for the plaintiff also admits this fact.

7. Accordingly, the present suit is disposed of with liberty to the plaintiff to pursue the claim before the Liquidator of the defendant or before any other authority in terms of above and in accordance with law.

**RAJIV SAHAI ENDLAW, J.**

**APRIL 27, 2018**

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