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

+ **W.P.(C) 8470/2017**

**M/S SRIRAM COMPOUNDS PVT. LTD.** ..... Petitioner  
Through **Mr.H.K.Chaturvedi with Mr.Sagar**  
**Chaturvedi, Advocates**  
versus

**SHIVA DRUMS PVT. LTD. & ORS** ..... Respondents  
Through **Mr.A.P.Singh, Advocate for**  
**respondent no.4/UOI**

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**ORDER**

% **15.01.2018**

After some hearing, learned counsel for the petitioner submits that they would prefer an appeal before the National Company Law Appellate Tribunal as interpretation given to the first proviso to Rule 5 (1) of the Companies (Transfer of Pending Proceedings) Rules, 2016 by the National Company Law Tribunal is erroneous. He submits that the issue of vires would be raised subsequently, if required and necessary.

This statement is made, in view of the averments made in the writ petition, asserting that the interpretation given by the National Company Law Tribunal is incorrect and contrary to intent and object of the aforesaid Rule and the Bankruptcy Code.

Without commenting on merits, we permit the petitioner to withdraw the present writ petition and file an appeal before the

National Company Law Appellate Tribunal.

We would clarify, in view of the apprehension expressed, that the petitioner would be entitled to ask for exclusion of the period during which the writ petition has remained pending for the purpose of limitation, as the petitioner has bonafidely filed the present writ and the Court on initial examination had issued notice.

With the aforesaid observation and taking the statement on record, we dispose of the present writ petition as withdrawn with liberty as prayed for.

**SANJIV KHANNA, J**

**CHANDER SHEKHAR, J**

**JANUARY 15, 2018**

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