

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CP-78-2015(O&M)
Date of Order: 16.05.2022

M/S GULMARG ISPAT UDYOG

..Petitioner

Versus

M/S SWAMI COACHES AND ENGINEERING PRIVATE LIMITED

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Yash Pal Gupta, Advocate
for the petitioner.

Mr. Vaibhav Sahni, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

On 05.04.2022, the Company Petition was ordered to be admitted and the petitioner was required to publish the aforesaid facts in the newspaper.

The learned counsel representing the petitioner prays for more time. It is evident that no irreversible or irretrievable steps have been taken by this Court.

The learned counsel representing the respective parties are *ad idem* that in view of the judgment passed in **Civil Appeal No.4041-2020, titled as "Action Ispat and Power Pvt. Ltd. Vs. Shyam Metalics and Energy Ltd.", decided on 15.12.2020, reported in AIR 2021 SC 309**, the matter is required to be referred to the National Company Law Tribunal, Chandigarh Bench. The Supreme Court while interpreting the provisions of Section 434 of the Companies Act, 2013 read with The Companies (Transfer of Pending Proceedings) Rules, 2016, has held that except when the Company Court has taken steps which are irretrievable, the petition filed

under Section 433, 434 and 439 of the Companies Act, 1956, is required to be referred to the National Company Law Tribunal, Chandigarh Bench. The matter is at a pre-admission stage and is, thus, required to be transferred to the National Company Law Tribunal, Chandigarh Bench.

All the miscellaneous applications, if any, shall be considered by the Tribunal. It is further observed that the matter is pending in this Court for the last 7 years, therefore, the Tribunal is requested to take up the matter, positively, on 25.07.2022, and pass appropriate orders.

The parties through their counsels are directed to appear before the National Company Law Tribunal, Chandigarh Bench, on the above-said date.

The office is directed to remit the case file to the Tribunal forthwith.

Statutory demand notice before filing of the petition before the National Company Law Tribunal under Section 8 of the Insolvency and Bankruptcy Code, 2016, shall stand dispensed with, in view of the facts that the notice of the company petition is already sent and served on the respondent.

All the pending miscellaneous applications, if any, are also disposed of.

May 16th, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*