

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

74

CP-94-2016(O&M)
Date of Order: 27.05.2022

IDEMITSU LUBE INDIA PVT LTD

..Petitioner

Versus

SHIVAM AUTOSALES PVT LTD

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

ANIL KSHETARPAL, J.

The learned counsel representing the petitioner agrees 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 6 years, therefore, the Tribunal is requested to take up the matter, positively, on 09.08.2022, and pass appropriate orders.

The petitioner through its counsel is 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.

May 27th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*