

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

CWP-5752-2022

Date of decision : 22.03.2022

Pranav Gupta

.....Petitioner

Versus

Union of India and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Puneet Bali, Senior Advocate, with
Mr. Surjeet Bhadu, Advocate, for the petitioner.

(The aforesaid presence is being recorded through video conferencing since
the proceedings are being conducted in virtual Court).

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

This petition has been filed by the petitioner challenging the order dated 13.12.2021 (Annexure P-4) passed by the National Company Law Tribunal, Chandigarh Bench, Chandigarh (for short 'NCLT'), whereby on an application filed by J.M. Financial Asset Reconstruction Company Limited (respondent No.2 herein) notice had been issued to the petitioner.

Learned senior counsel for the petitioner submits that the application filed by respondent No.2 before the NCLT is not maintainable, as the appropriate and proper forum for filing such an application is the Debts Recovery Tribunal and not the NCLT. He further submits that the petitioner has also challenged the constitutionally validity of the provisions of Section 97, 99 and 100 of the Insolvency and Bankruptcy Code, 2016. However, upon being asked if the petitioner has raised any such objection as regards the jurisdiction of the NCLT or it lacks jurisdiction in the matter, learned senior counsel for the petitioner

fairly submits that such an objection in specific terms has not been raised before the NCLT. Accordingly, he submits that in the given circumstances, the petitioner may be permitted to withdraw the petition with liberty to do so before the NCLT, while leaving the question regarding constitutional validity of the statutory provisions of the Insolvency and Bankruptcy Code, 2106, to be raised in appropriate proceedings. He further submits that the NCLT may be requested to decide the issue of jurisdiction before proceeding any further in the matter.

In view of the aforesaid and without commenting on the merits of the issue raised by the petitioner, the petition filed by the petitioner is permitted to be withdrawn with liberty to the petitioner to move an application before the NCLT raising the issue of jurisdiction. It goes without saying that in case, the petitioner does so, the NCLT would examine and deal with said application, in accordance with law.

Dismissed as withdrawn with the aforesaid liberty.

Copy of the order be given to learned counsel for the petitioner under the signatures of the Bench Secretary.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 22, 2022
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No