

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RA-CP-1-2019 in/and
CP-3-2015 (O&M)
Date of Order: 17.05.2022

ARJUN LAL CHAUDHARY

..Petitioner

Versus

HARYANA SURAJ MALTING LTD. AND ANOTHER ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Viren Jain, Advocate
for the applicant-petitioner.

Ms. Madhu Dayal, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

This Company Petition was dismissed for non-prosecution on account of failure on the part of the counsel to appear on 14.05.2019. An application for restoration has been filed which is supported by an affidavit of the counsel.

Keeping in view the aforesaid facts, the delay in filing the application is condoned, the application for restoration is allowed. The Company Petition is restored to its original number, subject to payment of costs as ordered by the Court on 14.05.2019.

Main

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 Metals 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 26.07.2022, 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 17th, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No