

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Dec-09-2013

Judge : Harish Tandon

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP145OF 2012 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF: PRATEEK PLASTOMETALS PVT.LTD.AND IN THE MATTER OF: SATISH KUMAR AGARWAL BEFORE: The Hon'ble JUSTICE HARISH TANDON Date : 9th December, 2013.

Appearance: Mr.Dipak Basu, Adv.Mr.Rivu Dutta, Adv..for the petitioner.

Mr.Ratnanko Banerjee, Adv.Mr.Pratyush Patwori, Adv.Mr.M.Ojha, Adv..for the petitioner & supporting creditor Mr.Samit Talukdar, Sr.Adv.Mr.Sourav Ghosh, Adv.Mr.Prithwiraj Sinha, Adv.Mr.Arnab Basu Mullick, Adv..for the company.

Mr.Reetobroto Mitra, Adv.Ms.Manju Agarwal, Adv.Ms.Manju Bhutoria, Adv..for unsecured creditor.

The Court: The company appears and submits that an application under Section 15 of the Sick Industrial Company (Special Provisions) Act, 1985 is pending before the Board of Industrial and Financial Reconstruction (BIFR) and, therefore, all the winding up petitions pending before this Court should not be proceeded with.

A letter dated 13.11.2013 issued by the company is produced before this Court which reflects the fact as narrated above.

The copy of the said letter has been circulated to petitioning creditors of the several winding up petitions.

Let a copy of the said letter be kept on record.

Mr.Talukdar, learned senior Advocate appearing for the company draws the attention of the Court to the provision of Sections 15, 16 and 22 of the Sick Industrial Companies Act (SICA).1985 to contend that the moment an application for reference is filed in the office of the Board, the enquiry shall be deemed to have commenced because of the explanation appended to sub-Section 3 of Section 16 of the SICA, 1985.

Upon hearing the respective creditors and the company this Court finds that all the creditors who have appeared before this Court are unsecured.

The secured creditors have not intervened in the proceeding despite the publication being made.

This Court feels that the company must disclose the secured creditors if there be any.

Such secured creditors are to be notified by the company when the company shall serve a notice upon those secured creditors intimating that this matter shall appear on 18th December, 2013 as Specially Fixed Matter at the top in the supplementary list.

This company shall produce the application filed before the BIFR in a prescribed manner with all its enclosures and shall also disclose the serial number of the said reference proceeding on the next date.

(HARISH TANDON, J.) dg2

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