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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 236/2017 & C.M. No. 1169/2017**

KUSUM PRODUCTS LIMITED (KPL) Petitioner
Through: Ms. Purti Marwaha Gupta and
Mr. C.S. Chauhan, Advocates.

versus

UNION OF INDIA AND ANR. Respondents
Through: Mr. D.R. Jain, Senior Standing Counsel
with Mrs. Sapna Jain, Advocates for R-2 and R-3.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **29.08.2017**

1. The petitioner/company has filed the present petition praying *inter alia* for issuing directions to the respondent No.2/Directorate of Income Tax (Recovery) for grant of relief under Sections 41(1), 45, 72(3) and 115 JB of the Income Tax Act, in compliance with the Scheme sanctioned by the BIFR, vide order dated 24.1.2012.
2. Ms. Gupta, learned counsel for the petitioner states that recently, on 17.8.2017, an order was passed by the High Court in a petition filed by the petitioner herein, registered as WP(C) No. 12152/2016, where the relief prayed for was for amendment of the cut-off date in the Scheme sanctioned by the BIFR and for extension of the period of rehabilitation. She states that

the said petition was disposed of in view of the order dated 24.5.2017 issued by the Govt. of India, giving some clarifications so as to remove difficulties faced by stakeholders, with liberty granted to the petitioner therein to approach the National Company Law Tribunal (in short '**NCLT**'), Calcutta, if so advised.

3. The file of W.P.(C) No. 12152/2016 has been summoned from the Registry and the order dated 17.8.2017, passed thereon perused.

4. Learned counsel for the respondents has also perused the order dated 17.8.2017 passed in the captioned petition and states that while he has no objection to similar liberty being granted to the petitioner herein, as granted to it in W.P.(C) No. 12152/2016, the petitioner be directed to approach the NCLT at Delhi instead of Calcutta.

5. Learned counsel for the petitioner states that the scheme of the Insolvency Bankruptcy Code, 2016 stipulates that a company shall approach the NCLT in whose jurisdiction, its registered office is situated and in the present case, the registered office of the petitioner/company is situated in West Bengal. She therefore states that the petitioner has no option but to approach NCLT, Calcutta for appropriate orders.

6. The present petition is disposed of in terms of the order dated 17.8.2017, passed in W.P.(C) No. 12152/2016, a copy whereof has been taken on record along with a copy of the Gazette Notification dated 24.5.2017, issued by the Govt. of India. The petitioner is granted liberty to approach NCLT, Calcutta for appropriate relief, as advised. Liberty is also granted to the respondents to approach NCLT, Calcutta for seeking transfer

of such a petition, as and when filed by the petitioner, which shall then be decided in accordance with law.

7. The petition is disposed of along with the pending application.

HIMA KOHLI, J

DEEPA SHARMA, J

AUGUST 29, 2017

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