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List of Matters transfer to NCLT w.e.f. 15.12.2016

MCA has came with The Companies (Transfer of Pending Proceedings) Rules, 2016 vide notification dated 7th December, 2016. This rule will be effective from 15th December, 2016 except Voluntary Windingup, which shall come into force from 1st April, 2017.

As the power given to Central Government u/s 434 (1) & (2), Central Government may make rules consistent with the provisions of the Act to ensure timely transfer of all matters, proceedings or cases pending (exp. Proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, inquiry pending to or before BIFR, the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 etc) before the Company Law Board or the courts, to the Tribunal under section 434.

MATTERS WHICH WILL TRANSFER TO THE TRIBUNAL w.e.f. 15.12.2016

S. No.	*Matter*	*Particular*
1.	[1] Proceedings relating to followings	Proceedings relating to following shall stand transferred to the Benches of the Tribunal. • Arbitration, • Compromise, • Arrangements and • Reconstruction .
2.	[2] Winding up on the ground of *Inability To Pay Debts*	• All petitions relating to winding up under *clause (e) of section 433 of the Act on the ground of inability to pay its debts* • pending before a High Court, and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959
3.	Winding up matters on	• All petitions filed under clauses (a) and (f) of section 433 of the Companies Act, 1956

[1] that all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred
[2] that the petitioner shall submit all information, other than information forming part of the records transferred in accordance with Rule 7, required for admission of the petition under sections 7, 8 or 9 of the Code, as the case may be, including details of the proposed insolvency professional to the Tribunal within sixty days from date of this notification, failing which the petition shall abate

	the grounds *__Other Than Inability To Pay Debts__*	• Pending before a High Court and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959
4.	Voluntary Winding up	All applications and petitions relating to *__Voluntary Winding Up__* of companies pending before a High Court on the date of commencement of this rule, ***__SHALL CONTINUE WITH AND DEALT WITH BY THE HIGH COURT__*** in accordance with provisions of the Act

MATTERS STILL CONTINUE WITH HIGH COURT

S. NO.	PARTICULAR
1.	All cases where opinion has been forwarded by Board for Industrial and Financial Reconstruction (BIFR), for winding up of a company to a High Court and where no appeal is pending, the proceedings for winding up initiated under the Act, pursuant to section 20 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall continue to be dealt with by such High Court in accordance with the provisions of the Act.
2.	All applications and petitions relating to voluntary winding up of companies pending before a High Court on the date of commencement of this rule, shall continue with and dealt with by the High Court in accordance with provisions of the Act

Note:

- No fee shall be payable in respect of any proceedings transferred to the Tribunal in accordance with these rules
- Relevant records shall also be transferred by the respective High Courts to the National Company Law Tribunal Benches having jurisdiction forthwith over the cases so transferred.
- *all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred

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consequences of use of such information. IN NO EVENT SHALL I SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL OR INCIDENTAL DAMAGE RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE INFORMATION. This is only a knowledge sharing initiative and author does not intend to solicit any business or profession.

Extract of Section 433 of Companies Act, 2013

433. Circumstances in which company may be wound up by Court. A company may be wound up by the Court,-

(a) if the company has, by special resolution, resolved that the company be wound up by the Court;

(b) if default is made in delivering the statutory report to the Registrar or in holding the statutory meeting;

(c) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(d) if the number of members is reduced, in the case of a public company, below seven, and in the case of a private company, below two;

(e) if the company is unable to pay its debts;

(f) if the Court is of opinion that it is just and equitable that the company should be wound up.