

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

CAPP No.31 of 2009 (O&M)

Date of Decision: July 15, 2013

**M/s Lakhani Apparel Pvt.Ltd. formerly known as M/s Excel
Buildcon Pvt.Ltd., Faridabad.**

...Appellant

Versus

M/s Dabriwala Steels and Engineering Company Limited & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE
HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH, JUDGE**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Chetan Mittal, Senior Advocate with
Mr.Gorav Kathuria, Advocate.

Mr.Anand Chhibbar, Senior Advocate with
Mr.Rahul Wadhera, Advocate.

Mr.Salil Sagar, Senior Advocate with
Mr.Gaurav Chopra, Advocate.

Mr.A.K.Chopra, Senior Advocate with
Ms.Rupa Pathania, Advocate.

Mr.Arjun Partap Atma Ram, Advocate.

Ms.Sangeeta Dhanda, Advocate.

SANJAY KISHAN KAUL, CHIEF JUSTICE (ORAL)

Learned senior counsel for the appellant submits that though there is a discussion about the contents of his application being CA No.522 of 2008 in the company petition as averred in the

application filed by him (Annexure A-7), no orders have been passed on that application. Learned counsel concedes that this application makes only the prayer to be impleaded as a respondent, while its real grievance is that it being an auction purchaser was assured that the liability towards the electricity charges as certified by the Official Liquidator was much lower than what ultimately came to be demanded from it. There were excess amounts available with the Official Liquidator, which have been paid over to the Directors, which ought to be made available to satisfy the claims of the electricity.

The aforesaid being the position, we put to learned counsel for the appellant that an appropriate application ought to have been filed seeking for refund before the learned Company Court and it was for the Company Court to examine the matter. This, however, has not happened.

Learned senior counsel for the appellant, faced with this situation, seeks to withdraw this appeal with liberty to move the learned Company Court through an appropriate application, seeking the appropriate refund.

Liberty granted.

Dismissed as withdrawn.

**(SANJAY KISHAN KAUL)
CHIEF JUSTICE**

July 15, 2013
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**(AUGUSTINE GEORGE MASIH)
JUDGE**