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**(2000) 10 AHC CK 0008**  
**In the Allahabad High Court**  
**Case No : Company Petition No. 88 of 1999**

Reserve Bank of India

APPELLANT

Vs

Krishi Export Com. Corpn. Ltd.

RESPONDENT

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**Date of Decision :** 16-10-2000

**Acts Referred:**

Companies (Court) Rules, 1959 — Rule 21, 24  
Companies Act, 1956 — Section 2(30), 443  
Reserve Bank of India Act, 1934 — Section 45IA(3), 45IA(7), 45MC, 45MC(1), 45MC(4)  
Reserve Bank of India General Regulations, 1949 — Regulation 18

**Citation :** (2000) 4 CompLJ 335

**Hon'ble Judges :** M.C. Jain, J

**Bench :** Single Bench

**Advocate :** Sharad Varma and S.N. Verma, for the Appellant; R.P. Agarwal, for the Respondent

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## Judgement

M.C. Jain, J.—This petition for the winding up of the respondent-company has been filed by the Reserve Bank of India ("the bank") u/s 45MC of the Reserve Bank of India Act, 1934.

2. The petition is based on these allegations : The petitioner bank is the regulatory authority for non-banking financial companies (NBFCs) and has been conferred with such powers under Chapter III-B of the Act as amended by the Amending Act of 1997. The powers conferred on the bank, inter alia, relate to the issuing of registration certificate to NBFCs, prescribing prudential norms, issuing directions, prohibiting NBFCs from accepting deposits, filing of winding up petitions etc. In exercise of powers conferred on the bank by the various provisions of the Act, it has issued Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 ("the Directions") to regulate acceptance of deposits by the companies carrying on the business of non-banking financial institutions. The respondent-company was, therefore, bound to follow these directions. The respondent-company was incorporated on

14-11-1972 and as NBFC was bound by the Directions of the bank as amended from time to time. It has paid-up capital of Rs. 12.14 lakhs as per the audited balance-sheet for the year ending on 31-3-1997. The main object of the respondent-company as per its memorandum of association is to mobilize funds, generate savings, to create deposits for the purpose of lending or investment and to carry on and transact by introducing mobile banking facilities in rural and urban areas. The respondent-company which has been carrying on the activities of a RNBC for over a decade never approached the bank for classification. After the Amending Act of 1997 NBFCs are prohibited by Section 45IA of the Act from commencing or carrying on the business of non-banking financial institution without obtaining a certificate of registration from the bank. The company submitted an application dated 26-6-1997 to the bank for issue of certificate of registration. An inspection of the books and accounts of respondent-company u/s 45N of the Act was conducted by the officers of the bank with reference to its financial position as on 31-3-1997. Based on the inspection and information available on record a show-cause notice dated 27-5-1998 was issued to the respondent-company, indicating that for the reasons stated therein it was not fulfilling the conditions as contained in sub-section (4) of Section 45IA. Its explanation was called for as to why its application for registration should not be rejected. The respondent-company submitted its reply dated 12-6-1998 which was examined by the bank. It was not found to be satisfactory and the application of respondent-company for certificate of registration was rejected by a speaking order dated 17-9-1998 passed by the bank. The fact situation was that the respondent-company had failed to repay the deposit amounts and was continuously violating the norms of the Act and the directions issued thereunder by the bank from time to time. As the application of the respondent-company for certificate of registration was rejected by the bank, it became disqualified to carry on the business. The continuance of business by the respondent-company is detrimental to the public interest and to the interest of the depositors. The bank also received complaints dated 9-11-1998, 5-12-1998, 6-1-1999, 14-1-1999, 3-7-1999 and August, 1999 from different persons (made mention of in paragraph 11 of the petition) concerning the payment of deposits due to be made by the respondent-company.

3. Thus, as per the petitioner-bank the respondent-company is liable to be wound up for three reasons: (i) it is unable to pay its debt; (ii) it has become disqualified to carry on the business because of rejection of its application for issuance of certificate of registration; and (iii) continuance of business by it is detrimental to the public interest and to that of the depositors.

4. Counter and rejoinder affidavits have been exchanged. Shorn of superficialities, gist of reply put forth by the respondent-company may be set forth. The petition filed by Deepak Singhal as Deputy General Manager, Department of Non-Banking Supervision, Reserve Bank of India, Lucknow is not maintainable as having been filed by incompetent person. The petition has also not been presented and verified in accordance with Rule 21 of the Companies

(Court) Rules, 1959 and as such, it deserves to be dismissed at the threshold. The conditions prescribed by Section 45MC(1) are not at all satisfied and the petition is misconceived. The order dated 17-9-1998 passed by the bank u/s 45IA is appealable before the Central Government under Sub-section (7). The respondent-company has filed an appeal which is pending. As such, the order passed by the bank has not become final. The Company Law Board (CLB) by order dated 27-9-1999 passed an order u/s 45QA and keeping in view the interest of the respondent-company, of the depositors and also of public at large, approved a scheme of repayment of deposits which has been circulated by the respondent-company to the depositors. Despite full knowledge of such order, the bank filed the instant petition concealing the aforesaid material fact. The respondent-company has been taking steps to repay the deposits in accordance with the directions of the CLB, but the petitioner is adamant to create hurdles so that the respondent-company may not be able to comply with the directions of the CLB. No doubt, the Net Owned Funds (NOF) of the respondent-company on the date of commencement of the Amending Act of 1997 (ie., on 9-1-1997) were less than Rs. 25 lakhs but it is entitled to continue its business for three years without obtaining registration certificate from the petitioner. The rejection of the application of respondent-company for registration certificate by the bank on 17-9-1998 without waiting for a period of three years is without jurisdiction and void. The bank with a view to destroy the business and reputation of the respondent-company and its directors has taken extraordinary and wholly illegal steps of publishing notices in several newspapers notifying that the respondent-company was not entitled to carry on its business. It has also issued secret instructions to various banks in which the respondent-company has its accounts or which are holding the investments of the respondent, not to allow operation of such accounts and not to release the investments. The respondent-company is, therefore, finding it impossible to meet the commitments to depositors to repay their deposits. This difficult situation has been created by the bank. The respondent-company was not obliged to approach the bank for any classification as alleged by the latter. After the inspection of books of account by the bank, respondent-company submitted its detailed reply to the bank whereafter it made a second inspection during 31-8-1998 to 5-9-1998, which fact has been concealed by the petitioner. No show-cause notice was issued after the second inspection-and the respondent was never informed about the report of the second inspection. As second inspection was made by the bank, the first show-cause notice became eclipsed. The rejection of the application of respondent-company for grant of certificate of registration by order dated 17-9-1998 passed by the bank is wholly illegal. It is wrong to allege that the continuance of business by the respondent-company would be detrimental to the interest of the public or that of the depositors. As regards the payment of depositors, the respondent-company has been taking steps to repay the same in accordance with the directions issued by the CLB and it cannot be deemed to be unable to pay its debt. The complaints referred to by the bank in the petition are baseless. Prior to the order dated 17-9-1998 passed by the bank there had never been any

complaint against the respondent-company about non-payment of deposits on maturity or any instance which could imply inability to pay its debt. In fact, the respondent-company is capable of meeting all its obligations towards the depositors and is in a position to recover its business.

5. To be short, the respondent-company challenges the authority of Deepak Singhal to file the winding up petition and the maintainability of the petition itself as preliminary objection and then it contends that no ground exists for its winding up on testing the matter according to the relevant provisions of the Act.

6. I have heard Shri S.N. Varma, learned senior advocate on behalf of the petitioner and Shri R.P. Agarwal, the learned counsel for respondent-company, besides carefully examining the record in the light of the relevant law. Draped in brevity, the submissions from the side of the petitioner is that the petition has been filed and verified by a competent officer of the bank and the same is perfectly maintainable. The central core of the argument from the side of the petitioner is that it is clearly indicated that the respondent-company is unable to pay its debt, it is unable to carry on its business consequent upon the rejection of its application for certificate of registration and continuance of business by it would be detrimental to public interest and to the interest of depositors. The bank as the monitoring body to safeguard the interest of depositors and public has rightly sought the winding up of the respondent-company. On the other hand, the learned counsel for the respondent-company has articulated the key points raised by the respondent-company in its reply, viz., the challenge to the maintainability of the petition and non-existence of any contingency warranting the winding up as per the provisions of the Act. In the subsequent discussion, I wish to judicially weigh the respective arguments from the two sides in my quest to arrive at the right conclusion.

7. The preliminary objection of the respondent concerning the filing and verification of the winding up petition as also its maintainability is taken up first.

8. The argument of the learned counsel for the respondent is that Deepak Singhal, Deputy General Manager of RBI is neither competent to file the petition under the provisions of the Companies Act/Companies (Court) Rules nor under the Reserve Bank of India Act/Regulations. Reference has been made to Rule 21 of the Companies (Court) Rules, 1959, which reads as under:

"21. Affidavit verifying petition.-- Every petition shall be verified by an affidavit made by the petitioner or by one of the petitioners, where there are more than one, and in the case the petition is presented by a body corporate, by a director, secretary or other principal officer thereof, such affidavit shall be filed along with the petition and shall be in form No. 3 :

Provided that the Judge or Registrar may, for sufficient reason, grant leave to any other person duly authorised by the petitioner to make and file the affidavit."

9. It is urged that as per Section 3(2) of the Act, the bank shall be a body

corporate. It is pointed out that as per Rule 21 of the Companies (Court) Rules reproduced above, when the petition is presented by a body corporate, it has to be verified by an affidavit by a director, secretary or other principal officer, thereof. Deepak Singhal who has filed this petition is neither a director, nor secretary of RBI. Nor has it been shown that he is principal officer of the bank. Therefore, in the absence of leave granted by the Court as per the proviso of Rule 21 aforesaid, the filing and verification of the winding up petition by him is incompetent and not maintainable. The learned counsel for the respondent has also made reference to Section 2(30) of the Companies Act, 1956 which reads as under:

"(30) "officer" includes any director, managing agent, secretaries and treasurers, manager or secretary, or any person in accordance with whose directions or instructions the Board of directors or any one or more of the director is or are accustomed to act, and also includes,--

(a) where the managing agent, or the secretaries and treasurers is or are a firm, any partner in the firm;

(b) where the managing agent or the secretaries and treasurers is or are a body corporate, any director or manager of the body corporate;

but, save in Sections 477, 478, 539, 543, 545, 621, 625 and 633, does not include an auditor;"

10. It may be stated that the above definition of the term "officer" is not exhaustive. It is only illustrative. Anyway, with the aid of this provision of the Companies Act, the argument is sought to be supported that Deepak Singhal who claims himself to be the Deputy General Manager of the Department of Non-Banking Supervision ("DNBS") of the bank is not covered under the category of the "officer" as per Section 2(30) and the winding up petition filed by him is not maintainable as being incompetent.

11. On the other hand, the submission from the side of the petitioner is that Deepak Singhal as Deputy General Manager of D.N.B.S, is fully empowered under the provisions of notification issued under Regulation 18(2) of the General Regulations. The counter argument of the learned counsel for respondent is that the notification dated 11-9-1998 regarding delegation of powers relied upon by the petitioner is ultra vires the provisions of the Reserve Bank of India Act as well as Regulation 18 under which it has been issued. It is reasoned that delegation of powers can be made only by framing regulations by Board of Directors of the Bank in accordance with the provision of Section 58 read with Section 7(3) of the Reserve Bank of India Act. The notification relied upon by the petitioner is said not to meet the said requirement. Reliance is placed on the case of Hukam Chand etc. Vs. Union of India (UOI) and Others, to articulate the point that there cannot be delegation of powers and the authority vested with the power of making subordinate legislation has to act within the limits of its powers and cannot transgress the same.

12. I have examined the controversy from all the facets and I am of the opinion that the preliminary objection raised by the respondent challenging the maintainability of the petition and the competence of Deepak Singhal to file the same cannot be sustained. I should proceed forthwith to state the reasons for the same.

13. At the outset, it has to be kept in mind that the winding up petition has been filed under the Act. The management of the bank is carried out in accordance with the provisions contained in Reserve Bank of India Act. Of course, as provided by Sub-section (4) of Section 45MC of the said Act, all the provisions of the Companies Act, relating to winding up of a company shall apply to winding up proceeding initiated on the application made by the bank under the said section. But it does not mean that the provision contained in Section 2(30) of the Companies Act should be imported to determine as to who shall be deemed to be an officer (of the bank). For looking into the scheme of management of the bank, the provisions contained in Reserve Bank of India Act have to be taken note of. Section 2(b) of the Act defines "the Central Board" as the Central Board of Directors of the bank. Section 7 of the Act deals with the management of the bank and reads as under:

"Management.--(1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest.

(2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.

(3) Save as otherwise provided in regulations made by the Central Board, the Governor and in his absence the Deputy Governor nominated by him in this behalf, shall also have powers of general superintendence and direction of the affairs and the business of the Bank, and may exercise all powers and to all acts and things which may be exercised or done by the bank."

14. Section 8 of the Act relates to composition of the Central Board and term of offices of Directors. Section 13 contains another noteworthy provision regarding meetings of the Central Board. Then another important provision is contained in Section 58 relating to the powers of the Central Board to make regulations. Its Sub-section (1) states that the Central Board may, with the previous sanction of the Central Government, by notification in the Official Gazette make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act. Sub-section (2) of Section 58 enumerates several matters for which the regulations may provide without prejudice to the generality of the provision contained in Sub-section (1). Item Nos. (h) and (i) of Sub-section (2) are relevant to be quoted below:

"(h) the delegation of powers and functions of the Central Board to Deputy Governors, Directors or officers of the Bank;

(i) the formation of Committees of the Central Board, the delegation of powers and functions of the Central Board to such Committees and the conduct of business in such Committees;"

15. Annexure 1 of the supplementary rejoinder affidavit filed by the petitioner is the copy of Reserve Bank of India General Regulations, 1949 which have been made in exercise of powers conferred by Section 58 of the Act by the Central Board of Reserve Bank of India with the previous sanction of the Central Government. Chapter III of the Regulations relates to the meetings of the Central and Local Boards and of the Committee of the Central Board. Chapter IV contains other general provisions. Regulation 10 in Chapter III reads as under:

"(1) A committee which shall be called the Committee of Central Board, consisting of the members of the Central Board who may at the time be present in the area in which the meeting is held, shall ordinarily meet once a week at the office of the Bank or any other place in the area in which the Governor, or in his absence the Deputy Governor authorised by him under the proviso to Sub-section (3) of Section 8 of the Act, has his headquarters for the time being, to attend to the current business of the Bank. Sufficient notice shall be given to such Directors to enable them to attend.

(ii) Two Directors of whom one shall be a director nominated u/s 8(1)(b) or 8(1)(c) or 12(4) of the Act shall form a quorum for the transaction of business.

(iii) Save as otherwise provided in this Regulation, the provisions of the Act and these Regulations shall apply to meetings of the Committee of the Central Board, as if they were meetings of the Central Board."

16. Regulation 15 in Chapter IV relates to delegation to the Committee of Central Board. It says that the Committee of Central Board shall have full powers to transact all the usual business of the Bank except in such matters as are specifically reserved by the Act to the Central Government or the Central Board. The purport of the said Regulation is that barring such matters as are specifically reserved by the Reserve Bank of India Act for the Central Government or the Central Board, the Committee of Central Board has full power to transact all the usual business of the Bank and the acts of the Committee would be deemed to be those of the Central Board. Regulation 18(1) provides the manner and form in which contracts binding on the bank may be executed. The provisions contained in regulations 18(2) and 19 are important and are excerpted below for instant attention.

"18. (2) Without prejudice to the generality of the powers conferred by or under Regulation 17, the Chief Manager, Additional Chief Manager, Chief Accountant, Secretary to the Central Board, the Secretaries of Local Boards and such other Officers of the Bank as the Central Board has authorised or may authorise in this

behalf by notification in the Gazette of India are hereby severally empowered for and on behalf of the Bank to execute lease deeds, transfers, conveyances, charges and other deeds relating to or affecting rights to or in immovable property, to endorse and transfer promissory notes, stock receipts, stock debentures, shares, securities and documents of title to goods, standing in the name of or held by the Bank, and to draw, accept and endorse bills of exchange and other instruments in the current and authorised business of the Bank to sign all other accounts, receipts and documents connected with such business.

19. Plaints, written statements, affidavits and all other documents connected with legal proceedings may be signed and verified on behalf of the Bank by any officer empowered by or under Regulation 18 to sign documents for and on behalf of the Bank, and such officer may appear in or before any Court, Tribunal or other body as the recognised agent of the Bank for the purposes of the proceedings in that Court, Tribunal or other body."

17. In pursuance of regulation 18, the Committee of Central Board of the Bank has authorised the incumbents of various appointments in the bank to exercise signing powers on behalf of the bank. Under paragraphs V(iii) and V(iii)(d) and (b) the Deputy General Manager of the Department of Non-Banking Supervision, is one of the officers given signing powers in connection with the functions entrusted to or powers conferred on the bank, inter alia, u/s 45MC of the Act [whereunder the instant winding up petition has been filed and verified by Deepak Singhal, D.G.M. (DNBS)]. He has thus been empowered to sign the winding up petition and generally act on behalf of the bank in all matters arising under various sections (including Section 45MC). The concluding words of paragraph V(iii)(d) run thus:

"...and to sign all papers or documents and generally to act on behalf of the Reserve Bank in all matters arising under the said sections."

18. It is crystal clear from the discussion made hereinabove that Deepak Singhal as Deputy Manager of DNBS is the competent person authorised under the Scheme of the Act and the Regulation/Notification made thereunder to file the instant winding up petition and to verify the same. The petition filed by him is in accordance with the provisions of the Act and also meets the requirement of Rule 21 of the Companies (Court) Rules. There is no delegation of powers as complained of by the learned counsel for the respondent. The act of the Committee of the Central Board is to be taken as of Central Board itself except for matters specifically reserved by the Act for Central Government or Central Board. Under valid authority, the Committee of Central Board of the Bank has issued notification dated 11-9-1998, relevant provisions whereof have been reproduced above to clear the mist. It is not ultra vires. Hyper-technical objection based on hairsplitting has been advanced by the respondent to challenge the maintainability of this winding up petition which has been filed by the bank through Deepak Singhal, Deputy General Manager, DNBS. On scrutiny, the hollowness of this objection is exposed. I, therefore, reject the preliminary

objection raised by the respondent attacking the maintainability of this winding up petition. The ruling of Hukam Chand's case (supra) also has no application here.

19. Another broad argument of the learned counsel for the respondent is that before filing a winding up petition u/s 45MC, it (bank) is required to be satisfied as to the existence of one or the other contingencies enumerated in the section warranting the filing of the winding up petition. It has been submitted that such a satisfaction of the bank is necessary preclude for the filing of the winding up petition which is wanting in the present case. It has been reasoned that the satisfaction about the existence of certain conditions enumerated in this section before filing a winding up petition is a duty to be performed by the bank and not the power conferred on it. The line of reasoning adopted and suggested by the learned counsel for the respondent is that the power of Deputy General Manager (DNBS) to sign and verify the winding up petition is not synonymous to the duty to be performed by the bank regarding being satisfied about the existence of one or other eventualities enumerated in Section 45MC for filing winding up petition. To my mind, the present winding up petition cannot be thrown over board on the basis of play of words or on an apologetic approach. The point of the matter is that the Deputy General Manager (DNBS) who has filed and verified this petition has been found to be an authorised and competent officer to do so, as held in the discussion made hereinabove. The petition has been filed by the bank (RBI) through Deputy General Manager (DNBS). It is not so that Deepak Singhal, who has filed and verified this petition, is an imposter. The petition has been filed by him on behalf of the bank and it shall be deemed to have been filed by the bank. The officer abovenamed has not filed the petition in his personal capacity or for some personal gain or private profit or for some ulterior motive of his own out of animosity against the respondent or some like reason.

20. Moreover, it is also pertinent to state that the question of satisfaction as mentioned in the opening part of Section 45MC loses much of its significance because ultimately it is for the Court to form an opinion on the basis of the material placed on record as to whether the ground exists for allowing the winding up petition. It would be recalled that as per Section 45MC(4) of the Reserve Bank of India Act, all the provisions of the Companies Act relating to winding up petition of a company apply to winding up proceedings initiated on the application made by the bank under this provision. Section 443 of the Companies Act relates to the powers of the Court hearing a winding up petition. On hearing a winding up petition, the Court may dismiss it; make any interim order that it thinks fit; or make an order for winding up of a company or any other order that it thinks fit. It is thus clear that many options are open to the Court depending upon the facts and circumstances of each case. The point that I wish to emphasize is that ultimately it is the Court hearing winding up petition, which has to come to a decision as to what order is to be passed in a particular case. The truth of the matter is that the winding up petition in question has been found to be entertainable and maintainable as discussed in the earlier part of this

order. It is, however, a different question that the Court would examine in subsequent discussion the merits of the winding up petition as per the requirements of Section 45MC in the light of the material placed before it. But the respondent's contention is liable to be rejected that the petition has been filed without satisfying the requirement of satisfaction of the bank which is a precondition for the filing of winding up petition.

21. It takes me to the main part of the matter, i.e., the merits of the winding up petition concerning its admission and advertisement. Running the risk of repetition, it should be mentioned for the sake of clarity here that Section 45MC provides various grounds on which the winding up petition can be presented by the bank. The petitioner (bank) has founded this winding up petition on grounds (a), (b) and (d) of Sub-section (1) of Section 45MC which are the following:

"Power of Bank to file winding up petition.--The Bank, on being satisfied that a non-banking financial company,--

(a) is unable to pay its debt; or

(b) has by virtue of the provisions of Section 45IA become disqualified to carry on the business of a non-banking financial institution; or

(c) \*\*

(d) the continuance of the non-banking financial company is detrimental to the public interest or to the interest of depositors of the company.

may file an application for winding up of such non-banking financial company under the Companies Act, 1956 (1 of 1956)."

22. I take up the ground (b) first. It should also be mentioned here for proper appreciation that several provisions have been made by the Amending Act of 1997 and one of them is that every non-banking financial company is required to obtain a certificate of registration to commence or carry on business of non-banking financial institution. As per the provisions contained in Sub-section (1) of Section 45IA of the Act, as introduced by Amending Act No. 23 of 1997, with effect from 9-1-1997, every non-banking financial company is required to obtain a certificate of registration and as per Sub-section (2) every non-banking financial company is required to make an application for registration to the bank in such form as the bank may specify. It also provides that non-banking financial company in existence on the commencement of Reserve Bank of India (Amendment) Act, 1997 shall make an application for registration to the bank before expiry of six months from such commencement and notwithstanding anything contained in Sub-section (1) may continue to carry on business of a non-banking financial institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

23. There are certain admitted facts. The respondent submitted an application for registration to the bank u/s 45IA(2). The said application of the respondent

was rejected by the bank on 17-9-1998. The contention of the learned counsel for the respondent is that the said order of rejection passed by the bank declining registration to the respondent is not final. Attention of the Court has been invited to Sub-section (7) of Section 45IA which runs as under :

"Requirement of registration and net owned fund.--(1) to (6) \*\* \*\* \*

(7) A company aggrieved by the order of rejection of application for registration or cancellation of certificate of registration may prefer an appeal, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the Bank where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such company shall be given a reasonable opportunity of being heard."

24. It is not disputed by the petitioner that the respondent has preferred an appeal against the order of the bank dated 17-9-1998 before the Central Government and the same is pending. The submission from the side of respondent is that since its appeal is pending before the Central Government, the order of rejection passed by the bank declining registration of it (respondent) is not final and as such the bank cannot rely on ground (b) of Sub-section (1) of Section 45MC to back its winding up petition. On the other hand, the argument of the learned counsel for the petitioner is that no stay order has been passed by the Central Government staying the bank's order dated 17-9-1998. This Court is of the opinion that no stay order is required to be passed by the Central Government to put a brake to the operation of rejection order during the pendency of the appeal. Sub-section (7) of the Section 45IA is couched in clear and unambiguous terms that where an appeal is preferred against the rejection of application for registration to the Central Government, the decision of the Central Government shall be final. The order of the bank rejecting the application for registration shall be final only when no appeal has been preferred. Therefore, stay of the operation of rejection order passed by the bank is automatic on the filing of the appeal by the aggrieved party, as the respondent in the present case has done. So, to come to the point, ground (b) of Sub-section (1) of Section 45MC cannot be relied upon by the petitioner to support this winding up petition.

25. I shall now do well to take the ground (a), viz., inability to pay debt. Let us first have a glance on the historical and legislative background culminating into the passing of Reserve Bank of India (Amendment) Act, 1997, inter alia, containing Section 45MC whereunder the present winding up petition has been made. It was noticed that non-banking financial companies which were not covered by the Banking Regulation Act, 1949 had started accepting deposits from public in a very big way. For want of any regulations regarding acceptance of deposit by them a number of unhealthy features and malpractices sprung up. There was sharp increase in the volume of deposits held by such companies. A

number of such companies also started issuing misleading and catchy advertisements so as to solicit deposits from the public. Tempting rates of interest were offered. Uninformed, unsuspecting and gullible small depositors belonging to middle or even lower middle strata of the society started falling prey in the bope of multiplying their deposits. Proliferation of such companies outside the banking system wholly depending upon public deposits started causing concern to the authorities. It was thought that such institutions/companies should not be allowed unlimited and unrestricted access to the public money. To remedy the situation and to prevent unwarranted growth of deposits outside the banking system, it was felt necessary for healthy credit system of the country to empower the RBI with necessary statutory provisions so as to enable it to control, regulate and supervise the deposits accepted by such companies and institutions. To achieve the goal, the Act was amended in 1963 and a new Chapter III-B was introduced in the Act by Banking Laws (Miscellaneous Provisions) Act, 1963 whereunder powers were conferred on the bank to issue suitable directions for regulating and monitoring the deposit acceptance by such companies and institutions. Chapter III-B of the Act contains deposits and financial institutions. In pursuance of powers conferred by Chapter III-B aforesaid, the Reserve Bank has been issuing directions to non-banking financial companies/institutions from time to time. The scope of the provisions and powers conferred on the Reserve Bank under Chapter III-B of the Act and the statutory directions issued by the Reserve Bank under these provisions came up for consideration before the Apex Court in the case of Peerless General Finance and Investment Co. Limited and Another Vs. Reserve Bank of India, wherein it has been observed as under:

"15. A combined reading of the above provisions unmistakably goes to show that the Reserve Bank of India, if considers necessary in the public interest so to do can specify the conditions subject to which any prospectus or advertisement soliciting deposits of money from the public may be issued. It can also give directions to non-banking institutions in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and periods for which the deposits may be received. This later power flows from Sub-section (3) of Section 45K of the Act. The Bank under these provisions can give directions in respect of any matters relating to or connected with the receipt of deposits, In our view a very wide power is given to the Reserve Bank of India to issue directions in respect of any matter relating to or connected with the receipt of deposits...." (P. 1043)

26. Over the years it came to be observed that the non-banking financial companies were indulging in the practice of taking deposits from public at high rate of interest with concealed purpose of their own businesses and concerns. It also come to the force that in many cases deposits taken by such companies were not refunded on due dates. In many cases, the deposits taken by such companies were eroded and depleted to such an extent that they were not in a position to refund the same. Many of them went into liquidation, leaving the

depositors high and dry as they could not recover even their principal deposits, what to say with cumulative interest. Such a fact situation necessitated further amendment in the Act. A peep into the statement of objects and reasons concerning Reserve Bank of India (Amendment) Act, 1997 would further clear the vision as to the purpose sought to be achieved by this Amending Act, which, inter alia, contains Section 45MC.

27. The statement of objects and reasons says that the activities of the non-banking institutions and unincorporated bodies receiving deposits are regulated in terms of the provisions of Chapters III-B and III-C of the Act, respectively. Until recently, the emphasis was on regulating the receipt of deposits by NBFCs as an adjunct to credit and monetary policies and to provide indirect protection to depositors. However, experience has shown that the provisions were neither sufficient to regulate the business activities of these companies nor do they provide adequate protection to depositors.

28. The Joint Parliamentary Committee which enquired into the irregularities in securities and banking transactions had recommended that the Government should examine whether the legislative framework for regulating NBFCs is sufficiently wide. The Working Group on Financial Companies appointed by RBI under the Chairmanship of Dr. A.C. Shah had suggested regulatory and control measures to ensure the healthy growth and operations of these companies.

29. Despite the provisions before the promulgation of the Reserve Bank of India (Amendment) Ordinance, 1997 contained in Chapter III-C of the Act, the unincorporated bodies circumvented the statutory restrictions by floating different partnership firms as and when a firm reached the level of 250 depositors. Further, it is reported that several unincorporated bodies were advertising aggressively through various media soliciting deposits from public by offering high rate of interest and other incentives.

30. The Reserve Bank of India (Amendment) Ordinance, 1997, further to amend the Act, provides several safeguards for the NBFCs so as to ensure their viability. These include compulsory registration of the NBFCs with RBI, stipulation of minimum net owned funds requirement, creation of reserve fund and transfer of certain percentage of profits every year to the fund and prescription of liquidity requirement. RBI has also been vested with powers to issue guidelines encompassing aspects such as income recognition, accounting standards, provision for bad and doubtful debts, capital adequacy, etc., which are intended to ensure sound and healthy operations and the quality of assets of these companies. RBI is also being empowered to issue directions to the auditors of non-banking financial companies to order special audit of NBFCs, prohibit acceptance of deposits by NBFCs, and to make application for winding up petition of NBFCs. Whereas earlier the only recourse available to the depositor was to approach the Court of Law for redressal of grievances. Powers have been vested with the CLB for directing the defaulting NBFCs to make repayment of the deposits/interest with a view to protect the interests of the depositors.

31. The unincorporated bodies have been totally prohibited from accepting deposits for the purpose other than for personal use. They have been permitted to continue to take deposits after incorporating themselves within the regulatory framework. The unincorporated bodies have also been specifically prohibited from issuing any advertisements in any form.

32. There are reports of several finance companies and unincorporated bodies having failed to repay the deposits collected from unsuspecting depositors who have been tempted by the attractive returns and incentives offered. Concern has been expressed in several quarters on the need to take urgent steps to regulate the activities of such companies and incorporated bodies.

33. The above is the statement of objects and reasons for the enactment of Reserve Bank of India (Amendment) Act, 1997. It may also be stated here that earlier to the passing of this Amending Act, Reserve Bank of India (Amendment) Ordinance, 1997 was promulgated by the President on 9-1-1997 and the Amending Act of 1997 replaced the same.

34. With the above backdrop, the facts of the present case as to the alleged inability of the respondent to pay its debt (which is the point under consideration presently) should be taken note of. It was in 1972 that the respondent-company was incorporated under the Companies Act and commenced its business of accepting deposits from the members of the public. Being classified as Residuary Non-banking Company, it is governed by the provisions of Chapter III-B of the Act. On its application dated 26-6-1997 to the RBI for registration u/s 45IA(2), the bank carried out an inspection u/s 45N with reference to its financial position as on 31-3-1997. A show-cause notice dated 27-5-1998 (Annexure 15 to the counter-affidavit A-6) was issued to it by the bank to explain certain deficiencies/irregularities observed during inspection. The same related to net owned funds, solvency, management and violation of the RBI directions. The respondent-company submitted its reply dated 12-6-1998 to the show-cause notice issued by the bank. The same is Annexure 16 to the counter-affidavit (A-6). As per the petitioner, another inspection of the respondent-company was conducted with reference to its financial position as on 31-3-1998. By order dated 17-9-1998 the petitioner-bank rejected the application of the respondent for grant of certificate of registration. The same is Annexure 4 to the winding up petition. There against an appeal preferred by the respondent-company before the Central Government as per the provision of Section 45IA(7) is admittedly pending.

35. Another development took place in the meantime that the CLP passed an order u/s 45QA, sanctioning a scheme of repayment of deposits on 27-9-1999. It appears that the respondent-company had made an application to CLP u/s 45QA. Section 45QA is contained in Chapter III-P and it empowers the CLP to order repayment of deposits. It may advantageously be reproduced below :

"45QA. Power of Company Law Board to order repayment of deposit.--(1) Every deposit accepted by a non-banking financial company, unless renewed, shall be

repaid in accordance with terms and conditions of such deposit.

(2) Where a non-banking financial company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board constituted u/s 10E of the Companies Act, 1956 (1 of 1956) may, if it is satisfied, either on its own motion or on an application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest, direct, by order, the non-banking financial company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order :

Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the non-banking financial company and the other persons interested in the matter."

36. The present winding up petition came to be filed by the RBI u/s 45MC on 27-10-1999, inter alia, on the ground that the respondent-company is unable to pay its debt. The argument of the learned counsel for the respondent is that the RBI ought to have allowed it an opportunity to implement the order of the CLB passed u/s 45QA by making repayment of the deposits of the depositors as per the scheme sanctioned by the CLP. It has been urged that the bank has unnecessarily hastened to present the winding up petition u/s 45MC. Suffice it to say in this regard that the power of this Court to entertain and adjudge a winding up petition presented by RBI u/s 45MC is not controlled by Section 45QA. To state it another way, Section 45MC is not overridden by Section 45QA. Untrammelled by the order of the CLB u/s 45QA, this Court is empowered to entertain and decide in an adjudicatory manner a winding up petition presented u/s 45MC having regard to the provisions contained in the said section and guided by the material on record.

37. Another argument of the learned counsel for the respondent company is that as per the averments made in the winding up petition the bank has not succeeded in establishing that the respondent is unable to pay its debt. On the other hand, the submission of the learned counsel for the petitioner is that it is amply proved by the own case of the respondent before the CLB that it was unable to pay its debt. It has been stressed by the learned counsel for the respondent-company that the petitioner should be made to confine only to the averments made in the winding up petition before this Court without falling back on what transpired and came to be there on record before the CLB.

38. To my mind, it is not possible to take too technical a view as urged for the respondent-company. It is well embedded legal position that admitted facts need not be proved. No document or pleading is required to back the admitted facts or position. It is further to be observed that the order of the CLB dated 27-9-1999 had come in existence before the filing of the present winding up petition. It matters not that reference thereto is not contained in the winding up petition presented by the RBI. What is material is that admitted facts mentioned in such

order are not subsequent developments or events. Rather, they existed earlier thereto and the respondent cannot wriggle out from its own admissions emerging from the order of the CLB dated 27-9-1999. The same can legally and justifiably be taken aid of to answer the question whether the respondent is unable to pay its debts. Now, the order of the CLB states that the aggrieved depositors had started sending applications to the CLB for giving suitable directions to the respondent-company to effect the repayment. There was regular flow of such applications. The company started defaulting in payment from September 1998 onwards. It was the own case of the respondent-company that it had accepted total deposits to the tune of Rs. 54 crores under various schemes as on 30-9-1998; that it had stopped accepting deposits with effect from September 1998. It was also its case that there had been unavoidable delay in honouring the commitments towards repayment of deposits back so of mismatch of cash inflow and outflow. The admission of the company is there that a large number of deposits are outstanding for repayment on maturity. It was also the case of respondent-company before the CLB that due to change in the policy of the RBI relating to non-banking financial companies and also the sluggish economy of the country and the financial unsatisfactory working of some of the major players in this field, the faith of the public was shattered and all the depositors had started demanding repayments which was highly impossible for the company to repay. The admission of the company was that despite its best efforts, it could not make any payment to the depositors since September 1998. Even its working came to standstill and all the offices had to be shut down. However, it contended that aggregate amount of its asset as on 30-9-1998 was around Rs. 54.60 crores. According to the company, its liabilities towards deposits and interest were to the tune of Rs. 54 crores. It appears that such assertion of the respondent-company swayed the CLB to approve a scheme for repayment. The discussion that I intend to make a shortwhile later would show that actually the liability of the respondent-company was far in excess of its assets which has to be taken to mean that it is unable to pay its debts.

39. In any view of the matter, the admissions of the respondent-company before the CLB referred to above leaves not the slightest doubt that its office had shut down, it had stopped making payments since September 1998 and the primary reason was that fresh deposits were not coming to it after September 1998. It gives a clear inkling that the trick or hidden secret of its operation over the years was that out of the fresh deposits, it was making the payments of earlier deposits but there was a sizeable gap between its liabilities and assets, the former being for in excess than the latter. It could pay its debts only by accepting fresh deposits. Indeed, there could be no end to it as it was to be an unending cycle and at any given time, the last set or group of depositors was to be the sufferer. The reality that in spite of the introduction of Chapter III-B, the RBI was also not very conscious about the discharge of its duties by effectively controlling the non-banking financial institutions. But when the grip came to be tightened with the Amending Act of 1997 introducing the requirement of registration of non-

banking financial companies with the RBI, the loophole came to surface on inspection made by the RBI to decide the application of the respondent-company for the issuance of certificate of registration.

40. Reference may also be made to the reply submitted by the respondent to the show-cause notice that it had been issued by the bank after inspection, raising certain objections to the grant of certificate of registration to the respondent. Show-cause notice was issued by the bank on 27-5-1998 and reply was submitted by the respondent on 12-6-1998 vide Annexure 16 to the counter-affidavit. Annexure 3 of the winding up petition is the balance-sheet of the respondent-company as on 31 -3-1997. It appears that outside liabilities of the respondent-company are to the tune of Rs. 6184.36 lakhs whereas the realizable value of the assets is around Rs. 5800.26 lakhs. Accumulated losses are shown to the extent of Rs. 2,70,04,003.73. Obviously, the accumulated losses of the respondent-company are quite alarming. On liability side, the secured loans are to the tune of Rs. 5,68,06,452.69 and unsecured loans are to the tune of Rs. 54,54,92,642.59. The current liabilities have been shown as Rs. 1,61,34,860.16. It would be recalled that before the CLB the respondent-company talked only of deposits (unsecured loans) amounting to Rs. 54 crores. But the fact is there that it has liability of over Rs. 5 crores in respect of secured loans as well. On payment to secured creditors amounting to over Rs. 5 crores, the value of the assets available for payment to the depositors would further be reduced.

41. It may not be out of place to mention that the respondent-company is in existence since 1972, but over the years it has not generated sufficient free funds to meet contingencies. It is an indicator that the profits were siphoned off or dealt with in a manner otherwise than reasonably protecting the interest of the depositors. Investments were made in subsidiary companies or in fields favoured or patronized by Directors to advance their own ulterior interests with scant regard to the security of the money of the depositors, liquidity and refund/repayment prospects.

42. The point is crystal clear that the respondent-company is unable to pay its debts.

43. The learned counsel for the respondent has argued that inability to pay debt is required to be proved as per the requirement of Sub-section (2) of Section 45MC, which is to the following effect:

"(2) A non-banking financial company shall be deemed to be unable to pay its debt if it has refused or has failed to meet within five working days any lawful demand made at any of its office or branches and the Bank certifies in writing that such company is unable to pay its debt."

44. So far as the first requirement of this sub-section is concerned, it should be pointed out that it is clear from the own case of the respondent-company before the CLB that all its offices had to shut down and it was not making any payment since September 1998 to the depositors. It was also the own admission of the

company that large number of deposits were outstanding for repayment on maturity. As regards the second requirement of the above sub-section, the order dated 17-9-1998 passed by the bank tantamounts to certificate by it that the respondent-company is unable to pay its debts.

45. Another argument of the learned counsel for the petitioner is that Section 45IA(3) itself provides a gestation period of three years for achieving the requisite target of net owned fund and the company may continue to carry on its non-banking financial business during this gestation period. The line of reasoning suggested by the learned counsel for the respondent is that the gestation period ought to have been allowed to it and filing of winding up petition earlier thereto is wholly unwarranted and unjustified. This argument would not detain me for long. The point of the matter is the gestation of three years is only with regard to achieving the requisite target of net owned fund, but it does not debar the bank from bringing the winding up petition against the non-banking financial company on other grounds, viz., its inability to pay its debts or that the continuance of non-banking financial business by it would be detrimental to the public interest or to the interest of the depositors of the company.

46. It has next been argued by the learned counsel for the respondent that in order dated 17-8-1998 rejecting the application of respondent for grant of certificate of registration, reliance has been placed on some second inspection and on the financial position of the company as on 31-3-1998 but no second show-cause notice was issued to the respondent to explain the position. As per the oral arguments of the learned counsel for either side there have been some variations subsequent to the fact position existing as on 31-3-1997 as per the relevant balance sheet. It should be stated in this regard that this Court is not sitting in appeal over the order dated 17-9-1998 passed by the bank rejecting the application of the respondent-company for issuance of certificate of registration. The discussion hereinabove has been made only on the basis of admitted facts or the admitted balance-sheet for the period ending on 31-3-1997.

47. The learned counsel for the respondent has also submitted that in paragraph 8 of the petition, the bank has averred that the company has failed to repay the deposit amounts but in subsequent sentences, the ground advanced is that it is unable to pay its debts. According to the learned counsel for the respondent, the RBI is in a confused state and is uncertain about the grounds on which the petition is founded. I do not attach any importance to this argument. "Failed to pay" and "unable to pay" are synonymous without any meaningful difference. As per the Oxford Dictionary, "unable" means "not able", "lacking ability". The meaning of "fail" is "be unable". Therefore, it is difficult to see any difference between the two words.

48. In the conspectus of the above discussion, at the admission stage this Court is of the opinion that the petitioner has been able to show that the respondent-company is unable to pay its debts with the result that the petition deserves to be admitted and advertised on this ground.

49. I would now address myself to another ground taken in the winding up petition, viz,, the continuance of non-banking financial business by the respondent-company is detrimental to the public interest or to the interest of the depositors of the company which is ground (d) of Sub-section (1) of Section 45MC.

50. Coming to grips on this question, it is to be noted that the interest of the depositors is of paramount importance. On the fair assessment of the facts and material on record, it is apparent that the director(s) of the company have conducted the operations of the company in such a way as to jeopardize the interest of large number of depositors whose hard earned money has been exposed to great risk. By not making investment out of the collected deposits as prescribed by the bank in its directions, the respondent-company has failed to protect the interest of the depositors and has rather jeopardized their interest. As such the continuance of the non-banking financial business by the respondent-company is detrimental to the interest of the depositors as also to the public interest. I should make my meaning clear by referring to relevant facts. Though a gestation period of three years has been provided u/s 45IA(3) to make up the deficiency in not owned fund (fixed at Rs. 25 lakhs with effect from 9-1-1997 by the Amending Act No. 23 of 1997, which is now said to have subsequently been raised to Rs. 2 crores by another amendment), but it would be contextual to take note of this net owned fund aspect of the matter in relation to the point under decision. The reason is that the grounds for winding up prescribed u/s 45MC are separable and winding up petition can be presented on one or more grounds. The term "net owned fund" has been defined in Explanation to Sub-section (7) of Section 45IA as under :

"Explanation.--For the purposes of this section,--

(1) "net owned fund" means-

(a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting therefrom-

(i) accumulated balance of loss;

(ii) deferred revenue expenditure; and

(iii) other intangible assets; and

(b) further reduced by the amounts representing-

(1) Investments of such company in shares of-

(i) its subsidiaries;

(ii) companies in the same group;

(iii) all other non-banking financial companies; and

(2) the book value of debentures, bonds, outstanding loans and advances

(including hire-purchase and lease finance) made to, and deposits with,--

(i) subsidiaries of such company; and

(ii) companies in the same ground, to the extent such amount exceeds ten per cent of (a) above.

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956 (1 of 1956)."

51. In the case at hand, in the balance-sheet for the year ending 31-3-1997 the share capital is shown a little over Rs. 12 lakhs. In accordance with the definition of net owned funds contained in the Act as reproduced above, net owned funds of the respondent-company were found to be negative to the extent of Rs. 1106.98 lakhs as on 31-3-1997 in the show-cause notice dated 27-5-1998 issued by the Bank to the respondent-company. In its reply dated 12-6-1998 to the show-cause notice the respondent-company could not refute that net owned funds were negative to the above extent as on 31-3-1997. Instead, it contended that net owned funds have been arrived at by applying the definition as contained in Explanation to Section 45IA and that the said artificial definition was to be ignored. It cannot be appreciated as to how could the net owned fund be calculated otherwise than in accordance with the statutory provision contained in Explanation to Sub-section (7) of Section 45IA. Having regard to the negative state of net owned funds of the respondent-company as on 31-3-1997, it admits of no doubt that the financial status of the respondent-company is quite low and even the deposits of the depositors have been eroded to a considerable extent. With a capital investment of about Rs. 12 lakhs only, the Directors of the company were rolling and thriving luxuriously on public deposits.

52. One of the objections in the show-cause notice dated 27-5-1998 issued by the Reserve Bank to the respondent-company was regarding the solvency of the latter that on 31-3-1997 the realisable value of the assets of the company was assessed to be Rs. 5800.26 lakhs which was far less than its outside liability of Rs. 6184.35 lakhs. In its reply to the show-cause notice, the respondent-company could not deny the said figure of Rs. 5800.26 lakhs as representing the realizable value of its assets. Instead (sic) that actual market value of assets had not been considered. The figure of realisable value of assets had been mentioned on the show-cause notice issued by the Bank on the basis of balance-sheet of the company as on 31 -3-1997. What is shown in the balance-sheet is the accepted mode as representing the true picture as to the liabilities and assets of a company. It spills beyond comprehension that any other mode could be adopted to assess the realisable value of the assets of the company.

53. Yet another point in the show-cause notice issued by the bank was the violation of its directions, i.e., the respondent-company had not invested in assets in accordance with the provisions of paragraph 5 of the notification No. DFC. 55/DG. (O)-87 dated 15-3-1987 as amended from time to time, issued by the RBI under Sections 45J and 45K of the Act. In its reply dated 12-6-1998 the

respondent-company just gave a short shrift to this important aspect, saying that the same were technical and procedural irregularities which have been regularized/were being regularized which could be checked in the next inspection. The requirement of making deposits as per paragraph 6 of the notification has an important purpose of securing the interest of depositors. It is for this reason that the residuary non-banking financial company (as the respondent is) required to make investment to certain percentage is given or prescribed securities. In the present case, the truth has been the other way that the directions issued by the RBI in exercise of powers conferred by Sections 45J and 45K proved to be un-edifying and the respondent-company defined the same with impunity, seemingly to advance and feed fat the personal interests of the directors of the company who largely made, investments in their subsidiaries or in the field favoured or patronized by them for their own ulterior motive.

54. The reply dated 12-5-1998 submitted by the respondent to the show-cause notice of the bank says that without going into the details of calculation arrived at by the RBI, they could only say that if they had repaid their liabilities in past 26 years, why they would not be able to repay the same in future. The fact is that the only secret of the operation of the respondent-company over the years has been to repay the previous depositors out of fresh deposits, at the same time squandering and eroding part of the deposits and making investments in contravention of the statutory directions issued by the bank. But it stands exposed that at a given time, viz., on 31-3-1997 its liabilities far exceeded its assets. It would be recalled that there has been simultaneous stoppage of inflow of fresh deposits and repayment of the earlier depositors' money.

55. So, the above discussion is indicative of the fact that the financial position of the respondent-company is far below the level prescribed under the Act and continuance of non-banking financial business by it is detrimental to the public interest as also to the interest of the depositors. At the given time, it is not in a position to repay its depositors and simply wants to carry on business on the strength of getting fresh deposits. It would be an unending vicious circle as whenever the things are required or desired to be squared, the last set of the depositors would be the losers. Operation of the non-banking financial company in such a way is necessarily detrimental to the interest of the public at large including those of the depositors.

56. It follows from the foregoing discussion that the winding up petition deserves to be admitted and advertised on this ground too that the continuance of non-banking financial business by the respondent-company is detrimental to the public interest as also to the depositors which is ground (d) of Sub-section (1) of Section 45MC relied upon by the petitioner-bank to press this winding up petition. After all, justice is the end of law. Everybody's natural anxiety has to be that depositors should get back their money to the extent possible by the mechanism provided by the Amending Act of 1997 introduced in the Act.

57. The long and short of the above discussion is that this winding up petition

deserves to be admitted and advertised under rule 24 of the Companies (Court) Rules on the grounds that it is unable to pay its debts and that the continuance of non-banking financial business by it is detrimental to the public interest as also to that of the depositors.

58. The petition is accordingly admitted for advertisement. Let steps for advertisement as per Rule 24 be taken within two weeks from today. The office will fix a date for hearing in the notice to be published and shall list the case for hearing on that date. The notice shall be published in the Hindi newspaper Dainik Jagran published from Varanasi and English newspaper Times of India published from Lucknow. Publication for the same date shall also be made in the Official Gazette.

59. It is made clear that to protect the interest of large body of depositors, until further orders, the order dated 27-10-1999 passed by this Court shall remain in operation, whereby the respondent-company, its servants and agents have been restrained from transferring, alienating and disposing of any of its assets in any manner or encumbering its property.

Order accordingly.