

**(2014) 04 P&H CK 0181**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CAPP No. 16 of 2014 (O & M)

M/s. Trigo Quality Production  
Services Pvt. Ltd.

APPELLANT

Vs

M/s. Rico Auto Industries Ltd.

RESPONDENT

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**Date of Decision:** April 22, 2014

**Acts Referred:**

- Companies Act, 1956 - Section 434, 439

**Hon'ble Judges:** Sanjay Kishan Kaul, C.J; Arun Palli, J

**Bench:** Division Bench

**Advocate:** C.S. Bagri, Advocate for the Appellant

**Final Decision:** Allowed

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**Judgement**

Sanjay Kishan Kaul, C.J.

The appellant-Company seeks to assail the impugned order dated 7.2.2014 passed by the learned Company Judge on the Company Petition filed against the respondent-Company under Sections 433(E), 434 and 439 of the Companies Act, 1956, dismissing the same in limine.

2. A perusal of the impugned order shows that a reference has been made to the statement made by the respondent in reply to a notice. However, learned counsel for the appellant has drawn our attention to the averments made in para-8 of the notice where it has been averred that qua the payments in question tax was deducted at source and even TDS Certificates issued. In response to the averments made in para-8, the deduction of TDS at source was not disputed. The question would, thus, arise whether the factum of having issued the TDS Certificates itself would not be a sufficient factor to prima facie amount to an acknowledgement of liability. We are saying so as the petition has been dismissed in limine.

3. On being asked as to where are the TDS Certificates, learned counsel for the appellant states that though they are available, the same were not filed before the

learned Company Judge.

4. In view of the aforesaid facts and circumstances, we are of the view that it would be appropriate for the appellant to file the TDS Certificates before the learned Company Judge in the Company Petition and in the conspectus of the same and what we have observed aforesaid the matter may be examined by the learned Company Judge.

5. The impugned order is accordingly set aside and the petition restored to its original number for being examined by the learned Company Judge, as aforesaid.

6. The appeal is accordingly allowed.