

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.12.2016

Coram:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.3771 of 2003

The Southern Switchgear Limited,
rep.by its Deputy General Manager

.... Petitioner

vs.

1.Appellate Authority
for Industrial and Financial
Reconstruction,
Jawahar Nagar,
Vyapar Bhawan,
No.1, Tolstoy Marg,
New Delhi-11

2.The Board for Industrial and
Financial Reconstruction,
Jawahar Nagar,
Vyapar Bhawan,
No.1, Tolstoy Marg,
New Delhi-11

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the order of the second respondent dated 14.5.2002 in case No.123/2001 as affirmed by the order of the first respondent dated 18.11.2002 in Appeal No.223/2002, and quash the same and consequently direct the second respondent to take this reference on file and dispose of the same in accordance with law.

For Petitioner : Mr.R.Parthiban

ORDER

When the matter was taken up for hearing Mr.R.Parthiban, the learned counsel for the petitioner submitted that the parties have not cared to contact the counsel this far. Under such circumstances, this Court perused the case papers.

2. It is seen that the petitioner company had made a belated reference to BIFR under Section 15(1) of the Sick Industries Companies (Special Provisions) Act, 1985 (hereinafter

referred to as the 'Act' in short) which was rejected by the BIFR on the ground that it was barred by limitation. Aggrieved by the order, the petitioner company approached the appellate authority for Industrial and Financial Reconstruction, New Delhi in Appeal No.223 of 2002. Even before the appellate authority, the representatives of the petitioner company did not appear, but was taking adjournments on one ground or the other, as they were enjoying certain protection against the recovery of dues by its creditors. The appellate authority perused the papers and held that the reference under Section 15(1) of the Act should have been made within 60 days from the date of finalisation of the audited accounts of the company for the financial year, as at the end of which, the company has become a sick industrial company. The provisions of Section 5 of the Limitation Act will not apply to the proceedings either before the BIFR or the appellate authority.

3. In this case, the reference has been made on 7.2.2001 by the petitioner company based on the audited accounts of the company for the year 1998-99. Thus, the reference has been made on the 130th day and not within 60 days, as contemplated under section 15(1) of the Act. This Court does not find any infirmity in the order passed by the appellate authority and accordingly, this writ petition stands dismissed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

Msk

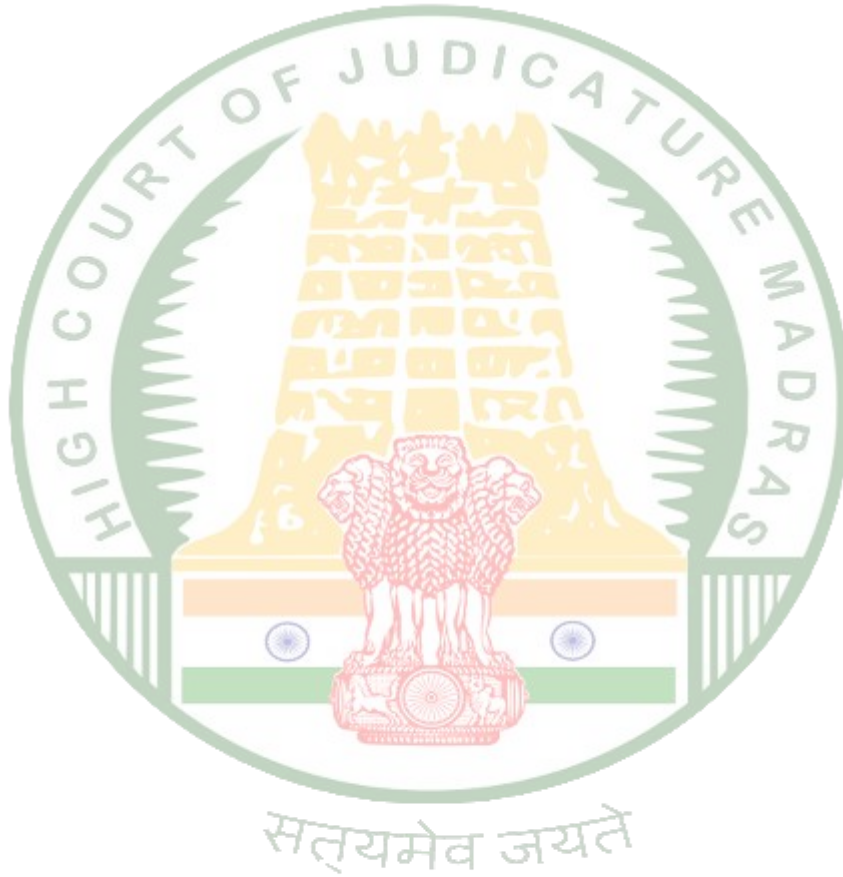
To

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