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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4118/2015

M/S. AKSHAYA TECHNOLOGIES PVT LTD .....Petitioner

Represented by: Mr.Ishan Jain, Advocate

versus

STATE BANK OF INDIA & ORS. .....Respondents

Represented by: Mr.S.L.Gupta, Advocate with Mr.Davesh Vashishtha, Advocate for R-1
Mr.Ram Ekbal Roy, Advocate with Mr.Harshvardhan Jhan, Advocate for R-2 and R-3

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% 16.03.2016

1. Impugned order dated March 03, 2015 dismissing Appeal No.136/2010 passed by AAIFR reads as under:-

> *"We have heard Mr.P.K.Jha learned counsel appearing for the appellant. The appellant in this appeal is aggrieved by the impugned order of BIFR dated 7.4.2010 whereby the change of management of the appellant company has been ordered. It is not disputed that the reference of the appellant company has been pending since 2001 and the appellant company is closed since 2005. The dues of the secured creditors, namely, M/s.BICICO and the M/s.BSFC are yet to be settled. In the circumstances inevitable conclusion arrived at by the BIFR that the present management is not capable of reviving the appellant company and, therefore, the change*

management should be ordered cannot be faulted with.

As such, we do not find any infirmity in the impugned order. There is no merit in the appeal.

The appeal is dismissed accordingly.

There is no order as to the cost."

2. With regret, the order has adopted the short cut approach. Appeal to AAIFR against orders passed by BIFR is both on law as also on facts.

3. Learned counsel for respondent No.1 concedes that a onetime settlement proposal has been accepted by the State Bank of India and thereunder a substantial amount has been received by the bank. As per the writ petitioner a rehabilitation proposal having concurrence of the creditors needed consideration for the reason the petitioner company had agreed that unpaid interest in sum of ₹102.19 lacs as on 31.3.2002 would be treated as Funded Interest Term Loan to be repaid in 17 quarterly instalments. As per the petitioner since proceedings continued before BIFR a modified rehabilitation report was prepared. The draft rehabilitation scheme was submitted in August, 2009. Though State Bank of India and other financial institutions opposed the draft rehabilitation scheme and this resulted in BIFR passing an order for change of management, it was pleaded in the appeal, that a settlement had been arrived at with SBI, a fact accepted by learned counsel for State Bank of India before us.

4. We are simply highlighting a few facts to bring home the point that AAIFR was obliged to note the relevant facts and thereafter state its opinion.

5. Lest parties are prejudiced we speak no more.

6. Petition is disposed of setting aside impugned order dated March 02,

2015. Appeal No.136/2010 is restored for adjudication afresh on merits by AAIFR.

7. No costs.

CM No.7469/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 16, 201
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