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

+ **W.P.(C) 9102/2016**

M/S KESAR ENTERPRISES LIMITED

..... Petitioner

Through: Mr. Abhimanyu Bhandari & Ms.
Roohina Dua, Advocates

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Rakesh Kumar, CGSC for
respondent No. 1/UOI.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **04.10.2016**

CM. No. 36864/2016 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 9102/2016

1. The petitioner company filed a reference under Section 15(1) of the Sick Industrial Companies (Special Provisions Act), 1986 before the Board for Financial and Industrial Reconstruction (BIFR) which was registered as Case No. 121/2015. On 02.05.2016, the BIFR passed an order restraining the petitioner company from disposing off or alienating in any manner, any of its fixed assets without the prior consent of the Board.

2. The petitioner company filed an appeal against the aforesaid order dated 02.05.2016, before the Appellate Authority, which was registered as Appeal No. 19/2016.

3. The aforesaid appeal was listed before the AAIFR on 04.06.2016. The AAIFR passed the following directions:-

“....Representative appearing for the appellant seeks one week’s time to file an application listing out the assets which the appellant wants to dispose of urgently and the justification therefore. Prayer for filing the aforesaid application is allowed.”

4. Thereafter, the petitioner company moved an application being Miscellaneous Application No. 39/2016 on 20.07.2016 seeking approval of the AAIFR for sale of the unencumbered assets and listing out the unencumbered, surplus/non-core assets in order to clear the dues of the sugar cane growers who are the raw-material suppliers of the petitioner. It is urged that the petitioner is in urgent need of funds to pay the sugar cane growers to ensure continuous supply of raw materials to the production facilities of the petitioner company.

5. It is pleaded that the total outstanding of the dues of the sugar cane growers is about Rs.85 crores. After disposing off the unencumbered assets/non-core assets, the petitioner company would be able to pay off more than 70% of the dues of the sugar cane growers. Unfortunately, the aforesaid application filed before the AAIFR is still pending disposal. The application was taken up for hearing on 04.07.2016 when it was posted for 21.07.2016. On 21.07.2016, hearing could not take place for want of quorum and the

matter was again listed for hearing on 30.08.2016. On 30.08.2016, the application again could not be taken up for want of quorum. On 02.09.2016, the Hon'ble Chairman Mr. R.C. Mishra who had been sitting alone adjourned the hearing till 13.09.2016 for arguments. On 14.09.2016, the hearing again could not take place. As Mr. R.C.Mishra was not in a position to dispose of the application/pending appeal, the petitioner company approached this Court. The application is posted for hearing on 06.10.2016, and there should be sufficient number of members to constitute a quorum. After hearing the respective parties and considering the predicament of the petitioner company, we deem it appropriate to dispose of the writ petition by directing the AAIFR to dispose of the pending application of the petitioner company within a fortnight from 06.10.2016.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

OCTOBER 04, 2016

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