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

+ W.P.(C) 57/2017 and CM Nos. 2234/2017 (stay), 7208/2017 (for directions, by Respondent No. 11

M/S HANUNG TOYS & TEXTILES LTD. Petitioner

Through Mr. Abhimanyu Bhandari and
Ms. Roohina Dua, Advs.

versus

UNION OF INDIA & ANR Respondents

Through Mr. Jasmeet Singh with
Mr. Srivats Kaushal, Advs. for UOI.
Mr. Karan Khanna and Ms. Asmita
Kumar , Advocate for respondent
Nos. 2, 5, 6, 7, 10, 12, 13, 14, 15, 17
& 24.
Ms. Uma, Adv. for R4.
Mr. Ajay Monga and
Mr. Ateer Mathur, Advs. for R11.
Mr. D.R. Jain, Senior Standing
Counsel with Ms. Sapna Jain,
Advocate for respondent No. 22.
Mr. Jay Savla & Mr. Rajpal Singh,
Advs. for R23.
Ms. Kajal Chandra and Ms. Perna
Chopra, Advs. for R26.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **23.03.2017**

In this writ petition, the petitioner has challenged an order dated
21st October, 2016 passed by the Appellate Authority for Industrial
and Financial Reconstruction, hereinafter referred to as the AAIFR in

Appeal no. 41 of 2016, whereby, the AAIFR has upheld an order dated 30.5.2016 of Board for Industrial and Financial Reconstruction, hereinafter referred to as the BIFR, abating the pending reference of the petitioner, under Section 15 of the Sick Industrial Companies (Special Provisions) Act, 1985 being BIFR Case No.54 of 2015.

The orders of the BIFR abating the proceedings and the order of the AAIFR upholding the abatement are challenged on the ground of violation of requisite Sub-Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) in taking possession of the secured assets.

If there is any legal infirmity in taking possession of the secured assets under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, by reason of infringement of any provision of Section 13, the remedy of the petitioners lies by way of an application in Debt Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act. There is also a provision for appeal to the Debt

Recovery Appellate Tribunal (DRAT) under Section 18 of the SARFAESI Act.

The writ petition was filed on 30.11.2016. Before the writ petition was filed, a Gazette Notification No. 2792 dated 28.11.2016 was issued enforcing the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 w.e.f. 1st December, 2016. With the enforcement of the said Repeal Act, the AAIFR and BIFR stand dissolved and all the proceedings of whatever nature pending before AAIFR and BIFR under SICA stand abated.

Since AAIFR and BIFR stand dissolved, all proceedings stand abated w.e.f. 1st December, 2016. The writ petition has become infructuous. By reason of provisions of Sick Industrial Companies (Special Provisions) Repeal Act, 2003, any company in respect of which, an appeal or enquiry stands abated, might make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code within 180 days of the commencement of the Insolvency and Bankruptcy Code.

The writ petition is disposed of.

In view of the order passed as above, the pending applications

have become infructuous and the same are disposed of.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

MARCH 23, 2017/rc