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

+ W.P.(C) 135/2017

KONEGA INTERNATIONAL PVT LTD Petitioner

Through Mr. Rakesh Kumar, Advocate.
versus

UNION OF INDIA Respondent

Through Mr. Ravi Prakash, CGSC along with
Mr. Nitish Gupta, Advocate for UOI.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **10.01.2017**

CM No. 676/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 135/2017

This writ petition is directed against an order dated 26.10.2016 passed by the learned AAIFR in MJA 12/16, whereby, the learned AAIFR refused to restore Appeal No. 07/2011 filed by the petitioner.

First of all, with the enforcement of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003, the Appellate Authority stands dissolved. There can be no question of restoration of an appeal which stands dismissed.

In any case, the writ court does not exercise appellate jurisdiction over orders of the AAIFR or the BIFR. AAIFR has found that the appeal had

been pending since 2011. Earlier, the appeal had been dismissed for default on 11.10.2011 but later restored on 21.06.2012. On 26.11.2015, an adjournment was sought on behalf of the petitioner. Adjournment was granted as a last opportunity on the specific condition that the petitioner would argue its case on 18.12.2015. However, on 18.12.2015, the petitioner again sought adjournment. The appeal was dismissed.

May be senior counsel could not come from Mumbai due to personal reasons. However, that can be no ground for an adjournment as a matter of course, particularly, in view of the earlier order which made it absolutely clear that no further adjournment would be granted. The petitioner should have made alternative arrangements to have its case argued.

We find absolutely no ground to interfere with the impugned order in proceedings under Article 226 of the Constitution of India. The writ petition is, therefore, dismissed.

We, however, make it clear that the dismissal of the writ petition will not prevent the petitioner from availing of any other remedy that may be available to the petitioner including the Insolvency and Bankruptcy Code, 2016.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

JANUARY 10, 2017

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