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

+ W.P.(C) 11327/2015 and CM No. 29710/2015 (stay)

M/S TIRUPATI CERAMICS LIMITED ..... Petitioner

Through Ms. Saloni Chowdhry, Advocate.

versus

M/S VIDEOCON INDUSTRIES LTD. AND ORS..... Respondents

Through Mr. Vineet Sinha, Advocate for  
respondent No. 1.

Mr. Rishi Pal and Mr. Hitesh Sachhar,  
Advocates for respondent No. 2.

**CORAM:**

**HON'BLE MS. JUSTICE INDIRA BANERJEE**

**HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA**

**ORDER**

% **25.01.2017**

This writ petition is directed against an order dated 12.10.2015 passed by the Appellate Authority for Industrial and Financial Reconstruction (AAIFR), New Delhi, dismissing Appeal No. 224/2011, filed by the petitioner, against an order dated 10.08.2011 of the Board for Industrial and Financial Reconstruction (BIFR), whereby, certain parties were impleaded in the pending reference of the petitioner company being Case No. 65/2002.

Learned counsel appearing on behalf of the petitioner company questions the finding recorded in the impugned order of the BIFR that Videocon Industries Ltd., hereinafter referred to as VIL and Shekhar

Bhandari are the major share-holders of the petitioner company. This finding, which has also been reiterated in the impugned order, will cause prejudice to the petitioner company in future and/or other pending proceedings. The apprehension of Learned Counsel is unfounded, since the AAIFR held:

*“Thus, the dispute as to whether respondent no. 13 is a major shareholder in the appellant company or not?, is pending adjudication before Hon’ble High Court of Delhi and the matter is yet to be decided. It is not for BIFR or AAIFR to adjudicate this issue and come to any finding as to whether respondent no.13 is indeed a major shareholder in the appellant company or not? However, at this stage, keeping in view the facts and circumstances of this case, BIFR and AAIFR can only decide as to what would be the most prudent and equitable course of action. In case respondent no. 13 is not allowed to participate in the proceedings and subsequently dispute of shareholding is decided in its favour, it would cause grave prejudice to the respondent. On the other hand, if the respondent no. 13 is allowed to participate in the BIFR proceedings and subsequently the dispute of shareholding is decided against it, the same would not cause any grave prejudice to the appellant. As such, we are of the considered view that respondent no. 13 has been rightly impleaded as a party by the BIFR.”*

The AAIFR has in the impugned order, made it clear that the issue of whether VIL is a major share holder of the petitioner company is the subject matter of a suit in this High Court and the issue is yet to be decided. It is not for the BIFR or AAIFR to adjudicate this issue. The suit has since been transferred to the Saket District Court. The impugned order does not call for interference under Article 226 of the Constitution of India. In any case, with the enforcement of the Sick Industrial Companies (Special

Provisions) Repeal Act, 2003 w.e.f. 01.12.2016, the writ petition has become infructuous and the same is dismissed. Needless to mention that the parties would be entitled to other remedies available in law, including remedies, if any, under the Insolvency and Bankruptcy Code, 2016.

The writ petition and the pending application shall stand disposed of.

**INDIRA BANERJEE, J**

**ANIL KUMAR CHAWLA, J**

**JANUARY 25, 2017**

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