**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**COMPANY APPLICATION No.1773 of 2015**

**ORDER:**

Initially, this Company Application is filed by the Official Liquidator with a prayer to take his affidavit with regard to sale of assets of the Company in Liquidation and pass appropriate orders to proceed further to bring the assets for sale in consultation with the respondents.

A perusal of the proceeding sheet discloses that on 13.07.2017, this Court by taking into consideration the facts on record and in view of the submission of the learned counsel appearing on behalf of the secured creditor that on account of the stay granted by the Apex Court, there is a stalemate, directed the Industrial Development Bank of India (IDBI), one of the secured creditors, to take steps for filing necessary applications before the Apex Court to get the matter resolved. Thereupon, IDBI moved I.A.No.64449 of 2017 in Civil Appeal No.2568 of 2013 and the Apex Court vide order, dated 05.10.2017 modified its order, dated 03.05.2010 permitting the Customs Department along with IDBI and the Official Liquidator to sell the goods subject to deposit of the auction sale proceeds being made with the

Registrar, Supreme Court, to be invested in a short term fixed deposit. On 18.07.2018, it was reported that the Commissioner, Central Excise, Kurnool Division, had taken steps for identifying a valuer for valuation of the properties and that the learned counsel appearing for the Official Liquidator submitted that as per the judgment of the Apex Court in **Union Bank of India v. Official Liquidator, High Court of Calcutta**[1]**,** the Official Liquidator was required to be issued a notice at the stage of assessment of the assets. Thereafter, the matter underwent four adjournments. On 30.10.2018, valuation report was filed before this Court by the Central Excise authorities and a copy of which was furnished to the learned counsel for the Official Liquidator as well as the learned counsel appearing for IDBI so as to enable them to submit their objections, if any, with regard thereto.

Today, when the matter is taken up, learned counsel for the Official Liquidator and the learned counsel appearing for IDBI submit that they have no objection with respect to the valuation report submitted by the Central Excise Department. Therefore, it can be said that as on date, there is no impediment for carrying out the orders of the Apex Court for auctioning the properties. It

[1] 2000 Vol.101 Company Cases 317

is to be noted that as per the valuation report, the assets were valued at Rs.13.30 Crores.

In those circumstances, the authorities of the Central Excise and Customs Department shall take necessary steps for inviting 'expression of interest' by carrying out advertisement for sale of the assets in terms of the procedure prescribed under the Customs Act / Central Excise Act. It is made clear that initially, the machinery, which was merged, is permitted to be sold and thereafter, the Official Liquidator shall file necessary application before this Court to proceed further in the matter with respect to sale of the land and buildings & plant and machinery. It is also made clear that the machinery that is required to be sold shall be specifically identified and separately marked by the Central Excise Department and before doing the same, the Official Liquidator as well as the bank officials shall be notified. This entire exercise shall be completed within a period of three (3) months.

Accordingly, this Company Application is closed.

**CHALLA KODANDA RAM, J**

30th NOVEMBER, 2018.

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