

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2455 OF 2019

Hubtown Limited .. Petitioner
Versus
Union of India and Ors. .. Respondents

Mr. Vikram Nankani, Senior Advocate with Sujay Kantawalla, Sajal Yadav I/b. Anukul D. Seth for petitioner

Mr. Ashish Mehta with Mohit Sahani, Satnipa Aich for respondent No.1

Mr. Mihir Thakore, Senior Advocate with Hemant Sethi, Nitin Mehta, Zainab Bharmal I/b. Hemant Sethi for respondent No.2.

Ms. R.A.Salunkhe, AGP for State.

CORAM : RANJIT MORE &
SMT. BHARATI HARISH DANGARE, JJ.

DATE : 9th APRIL 2019.

P.C.

The petitioner is basically challenging the maintainability of the proceedings filed by respondent No.2 before National Company Law Tribunal (Tribunal), viz., I.B.No.4128 of 2018, I.B.No.4129 of 2018, I.B.No.4130 of 2018 and I.B.No.4131 of 2018. The maintainability is challenged on the ground of jurisdiction.

2] Learned Senior Counsel appearing for respondent No.2

fairly suggested that the issue regarding the jurisdiction can be decided as a preliminary issue by the Tribunal itself and this Court need not go into the said aspect in exercise of powers under Article 226 of the Constitution of India.

3] Learned Senior Counsel for petitioner on instructions submits that this suggestion is acceptable to the petitioner.

4] In the circumstances, the petition is disposed of by passing following order:-

(a) The petitioner is at liberty to raise preliminary objection regarding maintainability of the petition on the ground of jurisdiction, before the Tribunal;

(b) In the event, such a preliminary objection/ issue is raised, the Tribunal should decide the same as a preliminary issue before going into the merits of the matter;

(c) In the event, the preliminary issue is answered against

the petitioner, in that contingency the impugned Corporate Insolvency Resolution Process shall not commence for the period of 15 days, in order to enable the petitioner to approach Higher Authority.

(d) In the meanwhile, the parties are at liberty explore the possibility of an amicable settlement.

(SMT. BHARATI H. DANGRE, J)

(RANJIT MORE, J)