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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12818/2018**
TOMORROWLAND TECHNOLOGIES EXPORTS LIMITED

..... Petitioner

Through: Mr. K.K.R.Das, Advocate with Mr.
Pavan Sachdeva, CMD and Mr. Ishan
Sachdeva.

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Ravi Prakash, CGSC with Mr.
Mohd.Shahan Ulla, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **21.01.2020**

1. The Petitioner approached this Court when its petition before the National Company Law Tribunal ('NCLT') being IB-278(PB)/2017 stood dismissed by an order dated 13th June, 2018. In the said order the NCLT held that on account of the notification dated 24th May, 2017 issued by the Central Government under Section 242 (1) of the Insolvency and Bankruptcy Code 2016 ('IBC'), it ceased to have any jurisdiction "to carry on implementation of the scheme even if finalized by the BIFR/AAIFR".

2. The Supreme Court has since then by an order dated 25th October, 2018 in Civil Appeal Nos.7291-92 of 2018 (*M/s. Spartek Ceramics India Ltd. v.*

Union of India and Ors.) upheld the judgment dated 28th May, 2018 of the National Company Law Appellate Tribunal ('NCLAT') observing that the notification dated 24th May, 2017 is in conflict with Section 4 (b) of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 ('SICA Repeal Act, 2003') and that, therefore, the appeal before the NCLAT is not maintainable. The net result of the order of the Supreme Court is that the notification dated 24th May, 2017 issued by the Central Government ceases to have any validity, since it is plainly in conflict with Section 4 (b) of the SICA Repeal Act.

3. Since the said judgment of the Supreme Court was not available to the NCLT when it passed the order dated 13th June, 2018, that order now is now required to be set aside and the proceedings before the NCLT revived. This is because under the first proviso to Section 4 (b) of the SICA Repeal Act, 2003 a company for which the scheme has been prepared, the proceedings in respect of which stand abated, may make a reference to the NCLT under the IBC within 180 days from the commencement of the IBC.

4. Consequently, this Court while setting aside the order dated 13th June, 2018 of the NCLT revives the present Petitioner's IB-278(PB)/2017 before the NCLT for now to be proceeded with in accordance with law. The said petition stands revived with the directions to be listed before the NCLT on 17th February, 2020. It will be open to the Petitioner to request the NCLT for expeditious disposal.

5. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 21, 2020
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