

O-205

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE

BIFR/538/1992
IA NO: CA/2/2005(Old No:CA/513/2005),
CA/3/2006(Old No:CA/92/2006),
CA/6/2008(Old No:CA/208/2008), CA/11/2021

M/S. BENGAL IMMUNITY LTD (IN LIQN.)
VS
UNION OF INDIA
-VS-
O/L

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 16th August, 2023.

Appearance;
Mr. Ranajit Chowdhury, Adv.

The Court : This matter has been repeatedly adjourned at the instance of the Union of India.

The Official Liquidator is represented.

The company was directed to be wound up as far back as on 6th July, 2005. Significantly, the company is a government company under the Companies Act, 1956. The company had been recommended for winding up by the Board For Industrial and Financial Reconstruction. It is fairly submitted on behalf of the Official Liquidator that the assets of the company (in liquidation) have not yet been sold nor taken possession of.

In view of the prolonged period of time which has lapsed after the passing of the winding up order and the fact that the Official Liquidator has not taken

possession of the assets of the company (in liquidation), there is no reason to exercise any discretion in favour of retaining this proceeding.

In view of the amended provisions of the Companies Act, 2013 and the decisions in *Action Ispat and Power Private Limited-versus-Shyam Metalics and Energy Limited* reported in (2021) 2 SCC 641 and in *A. Navinchandra Steels Private Limited –versus- Srei Equipment Finance Limited and Others* reported in AIR 2021 SC 1180, in my view this Court does not have any jurisdiction to entertain this matter. There is no irreversible situation which has arisen warranting this Court retaining this proceeding.

In view of the aforesaid, BIFR/538/1992 alongwith CA/2/2005 (Old No:CA/513/2005), CA/3/2006(Old No:CA/92/2006), CA/6/2008 (Old No:CA/208/2008), CA/11/2021 stand transferred to the National Company Law Tribunal, Kolkata.

The Department shall treat BIFR/538/1992 as disposed of insofar as the records of this Court are concerned.

It is needless to mention that all connected applications also stand transferred to the National Company Law Tribunal, Kolkata.

(RAVI KRISHAN KAPUR, J.)