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

+ **CO.APP. 12/2024**

M/S MAA TARINI MINERALS

..... Appellant

Through: Mr. Arunav Patnaik & Mr. Nirbhay
Nitya Nanda, Advocates

versus

M/S TECHNICAST ENGINEERS LTD.

..... Respondent

Through: Mr. Anurag Ojha, Senior Standing
Counsel (through V/C)

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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15.04.2024

CM APPL. 22065/2024 (exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM APP. 22064/2024 (delay 40 days in filing of appeal)

1. Appellant impugns order dated 30.01.2024, whereby, the learned Company Court has directed transfer of the proceedings to National Company Law Tribunal ["NCLT"].

2. Learned counsel for the Petitioner submits that in terms of Section 434 of the Companies Act, 2013, the proceedings could have only been transferred if the service had not yet been completed or on an application

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filed by either party. He submits that no application was filed by either party seeking transfer. However, the learned Company Court exercised the power to transfer the proceedings observing that nothing substantive had transpired in the proceedings.

3. Learned counsel submits that the winding up petition was filed in the year 2010 and has been pending for 14 year and fresh commencement of proceedings is likely to delay the proceedings. He submits that by order dated 14.02.2024, appellant has been directed by the NCLT to file the application in Form-5, as prescribed under Insolvency & Bankruptcy (application to adjudication authority) Rules, 2016. He submits that in case the proceedings are commenced *de novo*, it would delay the matter.

4. Keeping in view that the matter already stands transferred and was listed before the Tribunal on 14.02.2024, we are not inclined to interdict the order.

5. Reference may be had to Section 434 (1) (c) of the Companies Act, wherein, it is stipulated that the Tribunal shall proceed with the proceedings from the stage just before their transfer. The mere fact that the Tribunal has required the Appellant to file the application in Form-5 as prescribed under the Rules, does not imply that *de novo* proceedings have to be commenced by the Tribunal. On filing the application in Form-5, the Tribunal would continue with the proceedings from the stage where they were immediately prior to their transfer from this Court to the Tribunal.



6. In view of the above, we dispose of this appeal requesting the Tribunal to expedite the proceedings and endeavour to take up the proceedings on priority basis keeping in view of the fact that the same were initiated in this Court in the year 2010. The Tribunal shall further proceed with the petition from the stage where it was immediately prior to the transfer from this Court.

7. Learned counsel for the Appellant assures that the Appellant shall file the application in Form-5 as directed by the Tribunal before the next date fixed before the Tribunal i.e. 07.05.2024.

8. Copy of this order be given *dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

APRIL 15, 2024

RM

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