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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12840/2024**

MOHD ATIF QURESHI

.....Petitioner

Through: Mr.Krishnan Venugopala, Sr.
Advocate with Mr.Sunder Khatri,
Mr.Naman Khatri, Mr.Ravi Grover
and Ms. Puja Chaurasia, Advocates

versus

CENTRAL BANK OF INDIA & ANR.

.....Respondents

Through: Mr.Tushar Singh, Ms.Khyati Jain and
Ms. Akshra Arshi, Advocate for R-
1/CBI
Mr.Aman Raj Singh, Advocate for R-
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CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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24.09.2024

CM APPL. 53602/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 12840/2024 & CM APPL. 53603/2024 (Stay)

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:-

- “i. Call for records and issue a writ in the nature of mandamus or certiorari or any other writ/writs, order/orders, direction/directions to Respondent Bank arbitrary and unfair act of initiation of personal insolvency under IBC as the same is non-est or issued in violation of the provisions of under Article 14, 19 and 21 of the Constitution of India and;*
ii. Set aside the Order dated 03.01.2024 & 15.05.2024 and subsequent proceedings, passed by Hon'ble NCLT in CP IB No.



*613/ND/2023 in the facts and circumstances as stated above;
and*

*iii. pass such other or further order/orders which this Hon'ble
Court may deem fit and proper in the facts and circumstances
of the case and in the interest of justice”*

2. Mr.Krishnan Venugopala, learned senior counsel appearing on behalf of the petitioner submitted that the learned NCLT failed to appreciate the objections/submissions filed by the petitioner in CP IB No. 613/ND/2023 and mechanically passed impugned order dated 15th May, 2024 and admitted the insolvency petition under Section 95 of the Insolvency and Bankruptcy Code, 2016, therefore, violating the petitioner's Fundamental right as enshrined under the Constitution of India.

3. After some length of arguments, learned senior counsel appearing on behalf of the petitioner, does not press the captioned petition on merits and seeks an innocuous prayer that the instant matter may be remanded back to the learned NCLT for fresh adjudication after giving an opportunity of hearing to both the parties.

4. Learned counsel appearing on behalf of the respondent-Bank, on instructions, has not opposed the innocuous prayer made by the learned senior counsel appearing on behalf of the petitioner seeking remand back of the instant matter to the learned NCLT for afresh adjudication.

5. Heard learned counsel appearing on behalf of the parties and perused the contents made in the petition as well as the impugned order dated 15th May, 2024.

6. The petitioner has approached this Court seeking setting aside of the impugned order by stating that the learned NCLT violated their fundamental rights as no opportunity was provided to them before passing of the



impugned order.

7. On the aspect of maintainability of a writ petition on the grounds of violation of the principle of natural justice, the Kerala High Court reiterated the position of law in writ petition bearing No. **W.P.3864/21**, whereby, the matter was remanded back to the learned NCLT for fresh adjudication *vide* order dated 9th April, 2021. In the said case, the Kerala High Court relied upon the judgments rendered by the Hon'ble Supreme Court to crystallize the position of law regarding interference of a writ Court by exercising the powers vested under Article 226 of the Constitution of India.

8. In the instant case, it is an admitted fact that the impugned order dated 15th May, 2024 was passed without giving due opportunity of hearing to the petitioner and as per the position of law as reiterated in the foregoing paragraphs, this Court has the power to remand back the case for fresh adjudication. Thus, in view of the same, this Court is inclined to allow the prayer of the petitioner.

9. Accordingly, the impugned order dated 15th May, 2024 is set aside and the matter is remanded back to the learned NCLT with a direction to adjudicate the matter afresh by providing an opportunity of hearing to the parties, and thereafter, pass a speaking order in accordance with law expeditiously.

10. In terms of the above, the petition is disposed of alongwith pending applications, if any.

CHANDRA DHARI SINGH, J
[Click here to check corrigendum, if any](#)

SEPTEMBER 24, 2024/Dy/av