13
03.07.2025
Ct. No. 11
Jayanta

MAT 906 of 2025
in
IA NO: CAN 1 of 2025
in
IA NO: CAN 2 of 2025

MSV Laboratories Pvt. Ltd.
Vs.
Union of India & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Arup Nath Bhattacharyya
Mr. Biswaroop Bhattacharyya
Ms. Sayani Das
Ms. Sreetama Biswas
Mr. Arya Bhattacharyya
.... For the Appellant.

Mr. D. Chakraborty
.... For the UoI.

Mr. Biswabrata Basu Mallick, Ld. AGP
Ms. Parna Roy Choudhury
.... For the State.
Mr. A. Guha
Ms. Shilpa Das
.... For the respondent Nos. 4 to 6.
Mr. S. Datta
Mr. Debabrata Das
Mr. A. Sarkar
Mr. Prathik Acharjee
.... For the respondent No 3.

Parties are represented.

One of the primary issues in this appeal revolves around the question, whether appellant, a MSME enterprise can come within the mischief of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The point whether such Micro, Small and Medium enterprise, as the appellant, covered under MSME Act, would fall within the clutches of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act is an issue which has been decided by the Hon'ble Supreme Court of India in *Pro Knits – vs.- Board of Directors of Canara Bank and Others,* reported in, *(2024) 10 SCC 292.* The writ petition filed by the appellant herein was dismissed as the issue as raised by the appellant was held to be an afterthought by the learned Single Judge.

It was further held that the Tribunal would proceed and decide the pending application on its own merits relying on the submissions made by the parties.

Mr. Bhattacharyya, learned senior advocate submits that the Section 17 application is pending before the Debts Recovery Tribunal -2, Kolkata, where the point of MSME has been raised. However, the same has not been considered by the Tribunal.

Indisputably, the application before the Debts Recovery Tribunal had been filed in 2021, much prior to the decision of the Hon'ble Supreme Court which was made sometime in 2024.

We hold that this issue pertaining to MSME could not be construed as an afterthought, as it emerged after filing of the application before the Debts Recovery Tribunal-2, Kolkata, in 2021.

We, thus, set aside the order of the learned Single Judge dated 11th June, 2025 and grant liberty to the appellant to raise this issue before the learned Debts Recovery Tribunal in the pending matter by way of an application, within two weeks. The bank is restrained from taking any steps in the matter for a period of six weeks from date or till disposal of the application to be filed by the writ petitioner/appellant herein, whichever is earlier.

With this observation as above, the appeal and the pending application are disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) **(Tapabrata Chakraborty, J.)**