

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 12434 of 2017

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ESSAR STEEL INDIA LIMITED & 1....Petitioner(s)

Versus

RESERVE BANK OF INDIA & 3....Respondent(s)

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Appearance:

MR MIHIR THAKORE, SENIOR COUNSEL WITH MR MIHIR JOSHI, SENIOR COUNSEL WITH MR. KEYUR GANDHI, ADVOCATE WITH MR NISARG DESAI, WITH MR. SRIRAJ KHAMBHETE, ADVOCATES FOR NANAVATI ASSOCIATES, ADVOCATE for the Petitioner(s) No. 1 - 2

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CORAM: HONOURABLE MR.JUSTICE S.G. SHAH

Date : 04/07/2017

ORAL ORDER

1. Heard learned Senior Counsel Mr. Mihir Thakore with learned Senior Counsel Mr. Mihir Joshi with learned advocate Mr. Keyur Gandhi for the petitioners. Considering the averments in the petition and the submission that practically until 19.05.2017, petitioner – company is trying to restructure the package approved by the Board of Directors, but before any concrete decision has been arrived at between the parties, all of a sudden a Notification in the form of Press Release dated 13.06.2017 by the Reserve Bank of India has come in picture. Irrespective of other averments and directions in such press release, one line is quite shocking which reads thus;

“Such cases will be accorded priority by the National Company Law Tribunal (NCLT).”

2. It seems that by such direction, the Reserve Bank of India has classified few companies whose accounts are disclosed as Non-Performing Assets. However, for taking action against such companies, the effective date is considered as 31.03.2016 though press release is dated 13.06.2017 and, therefore, it is submitted that if at all the Reserve Bank of India has power to classify such company, then also, classification has been made vide this notification based upon the details as on 31.03.2016 and not as on 31.03.2017.

3. It is also submitted that petitioner company has paid almost Rs.3467/- Crores in last one year and as many as 4500 employees are working with the company and company is doing well since last one year and would be revived in view of serious effort of revival of the company by the company and the bank also by settling the accounts suitably.

4 Therefore, petitioner is apprehending that if action is taken as per press release dated 13.06.2017, then considering the provisions of Section 7, 16 and 17 of the Insolvency and Bankruptcy Code (IBC), 2016 the administration of the company would go into hands of Interim Resolution Professional and it would result into closing of petitioner company which is almost in the stage of revival and when it is in the position to pay Rs.3467/- Crores to the bank in last year.

5. In view of such fact, petitioner has come forward with a request to stay the proceedings. However, initially it would be appropriate to call upon the respondents to initially explain that what they mean by "Such cases will be accorded priority by the

National Company Law Tribunal (NCLT).”, irrespective of filing detailed reply on returnable date.

6. Issue **Notice** making it returnable on **07.07.2017**.

7. It would be appropriate for the National Company Law Tribunal to adjourn the matter, if any, listed before it before such date.

Direct service TODAY is permitted.

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(S.G. SHAH, J.)

