

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5<sup>th</sup> DAY OF JUNE, 2017

BEFORE

THE HON'BLE MR. JUSTICE A.S.BOPANNA

**WRIT PETITION NO.16486/2017(GM-Res)**

**BETWEEN :**

Falcon Tyres Ltd.,  
A Company registered under  
The Companies Act, 1956,  
Having its registered office at  
K.R.S. Road, Metagalli,  
Mysore, Karnataka - 570 016  
Represented by its  
Authorised Signatory.

...PETITIONER

(By Sri.Joseph Anthony, Adv. for  
M/s.JSM Law Partners, Advs.)

**AND :**

Edelweiss Asset  
Reconstruction Co. Ltd.,  
A Company registered under  
The Companies Act, 1956 and  
Registered as a Securitization  
And Asset Reconstruction  
Company pursuant to Section 3  
Of the Securitization and  
Reconstruction of Financial  
Assets and Enforcement of  
Security Interest Act, 2002

As a Trustee of EARC Trust and  
Having its registered office at  
Edelweiss House, Off CST Road,  
Kalina, Santacruz (East),  
Mumbai – 400 098.

...RESPONDENT

(By Sri.Vikram Trivedi, Adv. for  
Ms.Anuparna Bordoioi &  
Sri.Rahul Jain, Advs. For C/respondents)

. . . .

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 12.04.2017 passed by the learned National Company Law Tribunal at Bengaluru at Annexure `A`.

This writ petition coming on for *orders*, this day, the Court made the following:

### **ORDER**

Though the issue of maintainability is raised in the instant petition, considering that a detailed consideration on merits is not required herein, the said question is left open to be considered in an appropriate petition if the question of law in that regard arises for consideration.

2. The petitioner is before this Court assailing the order at Annexure `A' to the petition. The grievance of the petitioner is that the order admitting the petition is passed without providing opportunity to the petitioner and without hearing the petitioner herein in that regard.

3. The respondents have filed their additional counter/objections. Though the contentions as put forth is referred to therein the respondents in the light of having a consideration of the matter including the question relating to admission of the petition before the National Company Law Tribunal (for short 'NCLT') have conceded that the order impugned at Annexure `A' be set-aside and the NCLT be directed to reconsider the matter afresh by hearing the learned counsel for both the parties before considering the admission of the petition before it.

3. Apart from the fact that the respondents have conceded to it, since it would also resolve the issue that

is raised in the instant petition, without affecting the right of the parties, and would also avoid protraction of the litigation at this stage itself, the order at Annexure 'A' is set-aside.

The NCLT is directed to provide opportunity of hearing to the learned counsel for all the parties before it and thereafter consider the petition in accordance with law including on the issue relating to the admission of the petition before it.

All contentions are left open to be considered therein which shall be considered in an expeditious manner.

Petition is accordingly ***disposed of***.

**Sd/-  
JUDGE**

**SPS/bms**