

Ajmer Singh Bhullar and another vs Union of India and others

Present: Mr. Hemant Bassi and Mr. Gurinder Jit Singh, Advocates,  
for the petitioner (s).

Mr. Anil Chawla, Advocate, for Union of India.

Mr. Anupam Gupta, Senior Advocate with  
Mr. V. K. Sachdeva, Advocate and  
Mr. R. S. Bhatia, Advocate, for respondent nos. 2 and 4.

Mr. Ajay Pal Singh, Advocate for  
Mr. Ashok Paul Jagga, Advocate, for respondent no. 4.

Learned counsel for the bank has placed on record copy of the order passed by Hon'ble the Supreme Court in Special Leave to Appeal (C) No. 1740 of 2018 Shivam Water Treaters Private Limited vs Union of India Secretary to Government, Ministry of Corporate Affairs and others dated 25.1.2018. Special Leave to Appeal was arising out of order passed by the Gujarat High Court. The order reads as under:-

“Having heard learned counsel for the parties, we are only inclined to request the High Court to address the relief limited to any action taken by the respondents or any order passed by the National Company Law Tribunal. Barring this, the High Court should not address any other relief sought in the prayer clause. The High Court is requested not to enter into the debate pertaining to the validity of the Insolvency and Bankruptcy Code, 2016 or the constitutional validity of the National Company Law Tribunal.

Our present order does not debar the petitioner to challenge the validity of composition of the National Company Law Tribunal and the validity or the constitutionality of the insolvency and Bankruptcy Code, 2016 before this Court under Article 32 of the Constitution.

The special leave petition stands disposed of accordingly. No order as to costs.”

Referring to the aforesaid order, the submission by learned counsel for the Bank is that entire claim made by the petitioner in the writ petition is based on the validity of the statute, unless that is examined, no relief can be granted to the petitioner. In the light of the aforesaid order passed by Hon'ble the Supreme Court, the petitioner's prayer for declaring any provision of the Insolvency and Bankruptcy Code, 2016, cannot be examined by this Court.

Learned counsel for the petitioner submitted the aforesaid order applies only for the matter pertaining in Gujarat High Court and not to this Court. They sought time for seeking clarification from Hon'ble the Supreme Court.

Though we do not agree with the contention raised by the learned counsel for the petitioner, however, on his request adjourned to 19.4.2018.

(Rajesh Bindal)  
Judge

14.3.2018  
vs

(B. S. Walia)  
Judge