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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10189/2018

**INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA**

..... Petitioner

Through Mr.Vikas Mehta, Adv. with
Mr.Mithun Shashank, Adv.

versus

STATE BANK OF INDIA & ORS

..... Respondents

Through Mr.Khushboo Kapur, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **26.09.2018**

CM No. 39716/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 10189/2018 & CM No. 39715/2018

1. Issue notice.
2. The learned counsel for appearing respondent no.1 accepts notice.
3. Notice shall go to the other respondents by speed post as well as one of the approved couriers, returnable on 27.11.2018.
4. The question involved in the present petition is whether the National Company Law Tribunal (hereafter "the NCLT") could strike down the provisions of Section 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations

2016. The NCLT has held that the procedure for calling for ‘Expression of Interest’ is *ultra-vires* of the Insolvency and Bankruptcy Code, 2016 given the time bound manner in which the process is to be completed.

5. At this stage, this Court is not inclined to interfere with the impugned order. However, it is pointed out that in some cases, the ‘Expression of Interest’ has already been issued by the Resolution Professionals. This Court is of the view that the process in those cases, need not be interdicted. Therefore, it is directed that the impugned order dated 05.09.2018 passed by NCLT in the matter of *State Bank of India vs. Su Kam Power Systems Ltd.: CA-809(PB)/2018 in (IB)-540(PB)/2017* shall not come in the way of the matters where ‘Expression of Interest’ has already been issued.

6. List on 27.11.2018.

VIBHU BAKHRU, J

SEPTEMBER 26, 2018

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