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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6238/2019, CM APPLs. 20685/2021, 33895/2021,**
34574/2021, 45975/2023 and 59526/2023
MODI SPINNING AND WEAVING MILLS COMPANY LTD.

..... Petitioner
Through: Mr Nikhil Singhvi with Mr Parth
Aggarwal and Mr Milind Raj Dixit,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr Rakesh Kumar, CGSC with Mr
Sunil and Mr Abhishek Khanna,
Advocates.
Ms Jayashree Shukla Dasgupta with
Mr Nilesh, Advocates for respondent
nos.4 and 7.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE AMIT BANSAL

ORDER

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05.02.2024

[Physical Hearing/Hybrid Hearing (as per request)]

1. Mr Nikhil Singhvi, learned counsel, who appears on behalf of the petitioner/company and Ms Jayashree Shukla Dasgupta, learned counsel, who appears on behalf of respondent nos.4 & 7, in effect, the promoters of the petitioner/company and the Special Purpose Vehicle [in short, "SPV"] named Haryana Distillery Ltd. respectively, have drawn our attention to the order dated 26.04.2023 passed by the coordinate bench.

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2. A perusal of the said order would show that the coordinate bench appointed Ms Mahjabeen as the “Facilitator” for the implementation of the scheme sanctioned by the erstwhile Board for Industrial and Financial Reconstruction [BIFR].

3. The fact that recourse has been taken to this writ petition and not the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 is an aspect which is sought to be supported by relying upon the judgment dated 25.10.2018, passed by the Supreme Court in Civil Appeal No. 7291-7292/2018, titled ***Spartek Ceramics India Ltd. v. Union of India & Ors.***

4. The record discloses that Ms Mahjabeen has filed an interim-status report dated 06.11.2023.

5. Mr Singhvi submits that for most parts the sanctioned scheme has been implemented, except *qua* creditors belonging to two classes i.e., workers and unsecured creditors/ “pressing creditors”.

5.1 It is Mr Singhvi’s contention that insofar as workers are concerned, they are required to be paid approximately Rs. 83 crores whereas, unsecured creditors/ “pressing creditors” have to be paid about Rs. 1.56 crores.

6. Unfortunately, Ms Mahjabeen is not present in court.

7. Issue court notice to Ms Mahjabeen.

8. Ms Mahjabeen is requested to remain physically present in court on the next date of hearing.

9. List the matter on 15.05.2024.

CM APPL. 10800/2021

10. Ms Dasgupta submits that dues were wrongly claimed by Municipal
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Corporation, Modinagar i.e., respondent no.14, after the said respondent had arrived at a settlement with the petitioner-company.

10.1 It is Ms Dasgupta's contention that a provision was made in the sanctioned scheme and as a matter of fact, by way of the settlement arrived at with respondent no.14, the petitioner-company ended up paying an amount which was more than what was provided in the sanctioned scheme.

11. There is no representation on behalf of respondent no.14.

12. Issue court notice to respondent no.14 *via* all permissible modes, including e-mail, without insistence of process fee.

13. List the above-captioned application on 15.05.2024.

14. Meanwhile, Ms Mahjabeen will convene a meeting of the aforementioned classes of creditors which remain unpaid i.e., workers and unsecured creditors/ "pressing creditors".

14.1 In case amounts are disbursed, a report in that behalf will be filed by Ms Mahjabeen.

15. In furtherance of this exercise, Ms Mahjabeen will have liberty to issue public notices through newspapers having wide circulation.

16. Besides this, Ms Mahjabeen is also permitted to take steps to affix notice at an appropriate place in the registered office of the petitioner-company.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 5, 2024/tr

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Click here to check corrigendum, if any

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