

ITEM NO.10

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 30092/2022

(Arising out of impugned final judgment and order dated 09-05-2022 in CAAT(I) No. 411/2022 passed by the National Company Law Appellate Tribunal)

ASHOK KUMAR SARAWAGI

Petitioner(s)

VERSUS

ENFORCEMENT DIRECTORATE & ANR.

Respondent(s)

(IA No.156830/2022-CONDONATION OF DELAY IN FILING and IA No.155872/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 01-11-2022 This petition was called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE BELA M. TRIVEDI**

For Petitioner(s) **Mr. Dhruv Mehtra, Sr. Adv.
Mr. Tishampati Sen, Adv.
Ms. Riddhi Sancheti, AOR
Mr. Anurag Anand, Adv.
Ms. Anupama Dhurve, Adv.**

For Respondent(s)

**UPON hearing the counsel the Court made the following
O R D E R**

Mr. Dhruv Mehta, learned Senior Advocate appearing for the petitioner submits that the order presently under challenge has relied upon two previous orders passed by NCLAT; in the matters of (i) Varrasana Ispat Limited Vs. Deputy Director of Enforcement Company Appeal (AT) (Insolvency) No.493 of 2019 and (ii) Kiran Shah vs. Enforcement Directorate -Company Appeal (At) (Ins.) No.817 of 2021.

He has also invited our attention to the orders passed by the NCLAT in both the matters. The judgment dated 02.03.2019 in the first matter is appended at page 700 in the compendium and paragraph 13 of the judgment makes it clear that the order of attachment made by Deputy Director, Directorate of Enforcement was much prior to the initiation of the Corporate Insolvency Process.

Similarly, in the case of Kiran Shah vs. Enforcement Directorate -Company Appeal (At) (Ins.) No.817 of 2021, the concerned order at page No.1048 states in paragraph 5 of the order that the provisional attachment order dated 08.05.2019 was prior in point of time before the admission of application on 06.09.2019.

Learned counsel submits that the facts in the instant case are completely distinguishable. In the instant case, the provisional attachment order was passed after initiation of proceedings under the Insolvency and Bankruptcy Code, 2016.

Issue notice on the SLP as well as on the application seeking condonation of delay, returnable on 21.11.2022.

List on 21.11.2022 to consider the matter regarding admission of appeal as well as prayer for interim relief.

Pending further consideration there shall be ad interim relief in the nature of status quo to be maintained by both the parties with respect to the proceedings in question.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER