

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

WRIT PETITION No.35456 of 2021

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. V.Murali Manohar, learned counsel for the petitioner.

Ms. Ranjani Ramesh, learned counsel representing Mr. A.Sanjay Kishore, learned counsel for respondent No.1.

Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent No.3.

2. With consent of the parties, the matter is heard finally.

3. In this writ petition, the petitioner who is a guarantor to a transaction has assailed the validity of the action of Investcorp Score Fund, Mumbai in initiating coercive steps under Insolvency and Bankruptcy Code, 2016 by approaching the National Company Law Tribunal,

Hyderabad Bench. The petitioner has assailed the aforesaid action of respondent No.1 in approaching the National Company Law Tribunal, Hyderabad Bench *inter alia* on the ground that the same is arbitrary, high-handed and is violative of Section 60 of the Insolvency and Bankruptcy Code, 2016.

4. Admittedly, the petitioner has received the notice on the proceedings before the National Company Law Tribunal, Hyderabad Bench and has entered appearance. Therefore, it is open for the petitioner to raise all contentions in the proceedings which are pending before the National Company Law Tribunal, Hyderabad Bench.

5. In the peculiar facts of the case, we are not inclined to entertain this writ petition. It is further clarified that all issues are kept open to be agitated in the proceedings before the National Company Law Tribunal, Hyderabad Bench. We decline to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India, which even otherwise is discretionary

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in nature. Needless to state that the petitioner is at liberty to take recourse to such remedies as may be available to him in law with regard to his grievance.

6. With the aforesaid liberty, Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

ALOK ARADHE, CJ

N.V.SHRAVAN KUMAR, J

Date: 22.09.2023
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