
(1994) 04 RAJ CK 0050
In the Rajasthan High Court
Case No : Company Petition No. 3 of 1990

20th Century Finance Corporation Ltd.	Vs	APPELLANT
Partap Rajasthan Special Steels Ltd.		RESPONDENT

Date of Decision : 04-04-1994

Acts Referred:

Companies Act, 1956 — Section 433

Citation : (1994) 81 CompCas 369

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : None, for the Appellant; Paras Kuhad, for the Respondent

Judgement

G.S. Singhvi, J.—This petition has been filed u/s 434 of the Companies Act, 1956, with a prayer to order winding up of Partap Rajasthan Special Steels Ltd., Jaipur, on the ground that it is just and equitable and in the interest of justice to wind up the company on account of huge financial losses suffered by the company.

2. Notice of this petition was ordered to be issued by the court on July 27, 1990. After service of notice, the respondent-company appeared and brought to the notice of the court that a reference had been made by the company to the Board for Industrial and Financial Reconstruction. The court, therefore, adjourned the proceedings on more than one occasion. On August 13, 1993, counsel for the company brought to the notice of the court that by an order dated December 27, 1991, the company has been declared a sick industrial company within the meaning of Section 3(1)(o) of the Sick Industrial Companies (Special Provisions) Act, 1985.

3. The argument of Shri Paras Kuhad is that, once proceedings under Chapter III of the Act of 1985 have commenced, the proceedings in the company petition must be declared as abated. He placed reliance on a decision of the Gujarat High Court in Testeels Ltd. v. Radhaben Ranchodlal 1989 66 Comp Cas 555.

4. A similar question has been examined by me in S. B. Company Petition No. 6 of 1991 (Union of India v. Krishna Mills Ltd. 1994 81 Comp Cas 50), after a detailed examination of the scheme of the 1985 Act and it has been held by the court that the proceedings on the company petition do not abate merely because of commencement of proceedings under the Act of 1985. Since detailed reasons have already been given in the order of this court dated 9th September, 1993, I do not consider it necessary to repeat those reasons. However, having taken note of the fact that the company has been declared to be a sick company and proceedings under the Act of 1985 are pending, I order that the proceedings of this petition shall remain frozen and the file of this case be consigned to record.

5. It shall be open to the petitioner to move the Board for Industrial and Financial Reconstruction for appropriate orders. It shall also be open to the petitioner-company to move this court for revival of the proceedings of this case after the proceedings under the Act of 1985 are concluded.