

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 160 of 2017**

**IN THE MATTER OF:**

**Pr. Director General of Income  
Tax (Admn. & TPS)**

**...Appellant**

**Versus**

**M/s. Spartek Ceramics India Ltd. & anr.**

**...Respondents**

**Present:**

**For Appellant :                Shri D.R. Jain, Senior Standing Counsel with    Mrs.  
Sapna Jain, Advocate**

**For Respondent No. 1: Shri Neeraj Chaudhry, Advocate**

**For Respondent No. 3: Shri Sanjay Shorey, Joint Director (Legal) with Shri  
Meghav Gupta, Company Prosecutor (Union  
of India)**

**O R D E R**

**10.11.2017**        The question arises for consideration is whether Central Government in exercise of power conferred under Section 239 of the Insolvency and Bankruptcy Code, 2016 can empower the National Company Law Appellate Tribunal (NCLAT) to hear an appeal against the order passed by the Board for Industrial and Financial Reconstruction (BIFR); in absence of any such power delegated by the Parliament under any Central Act.

In this connection, one may refer to Section 410 of the Companies Act, 2013 under which NCLAT has been created and Section 421 by which Parliament has empowered the NCLAT to hear an appeal against the order passed by the National Company Law Tribunal (NCLT); under Section 61 of the Insolvency and Bankruptcy Code, 2016 the Parliament has empowered the NCLAT to hear an

appeal against an order passed by the Adjudicating Authority and under (amended) Section 53(B) of the Competition Act, 2002, the Parliament has empowered NCLAT to hear an appeal against the order passed by the Competition Commission of India (CCI). However, no such power has been delegated by the Parliament to the Central Government to further delegate the power of hearing the appeal against the order passed by the BIFR by NCLAT. For proper assistance, we feel that the Central Government through any lawyer of eminence should assist this Appellate Tribunal.

Let a copy of this order be handed over to the learned counsel for the appellant and Shri Sanjay Shorey, Joint Director (Legal), Ministry of Corporate Affairs to bring this order to the notice of Secretary, Ministry of Corporate Affairs and the Secretary, Finance Department, Government of India.

Post the matter on 30<sup>th</sup> November, 2017 as the first case, after fresh matters.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice A.I.S. Cheema ]  
Member (Judicial)

[ Balvinder Singh ]  
Member (Technical)

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