

SUPREME COURT OF INDIA

Modi Industries Ltd.

Vs.

State of U.P.

C.A.No.3088 of 2008

(S.B. Sinha and Lokeshwar Singh Panta JJ.)

28.04.2008

ORDER

1. Leave granted. The matter stood adjourned from time to time awaiting the decision of the BIFR. The BIFR has since passed an order on 26.3.2008 the material portion whereof reads as under:

“17. Having considered the facts on record, the Bench observed that in the hearing held on 12.3.2007, the Bench had directed the promoters of the company to submit fully tied up proposals jointly or severally, to IDBI (OA) within three months, in terms of Hon'ble AAIFR order dated 24.5.2006. IDBI (OA) was directed to submit a fully tied up DRS to the Board within two months thereafter. The cut-off date for the scheme was to be taken as 30.6.2007. Notwithstanding the interim orders of status quo of the Hon'ble AAIFR, the final cut-off-date given by the Board continued to be 30.6.2007. 17.1 As per the standard guidelines of the Board for preparation of rehabilitation scheme, the company was required to be regular in the payment all its current dues arising after the cut-off-date, since the recovery of such dues was not covered in the proposed rehabilitation scheme. 17.2 The Bench observed from the company's audited balance sheet for 2006-07 that the company was working and paying the current statutory dues also. 17.3 Therefore, the Bench permits the Commercial Tax Department, Government of Uttar Pradesh to recover its outstanding dues, due after 30.6.2007, i.e. the cut-off-date given by the Board vide its final order dated 12.3.2007 regarding preparation of the rehabilitation scheme." In view of the subsequent events, we are of the opinion that subject to the parties seeking appropriate remedies thereagainst, interest of justice would be subserved if the order of the High Court is set aside at this stage and we direct accordingly. We may observe that we have not gone into the merit of the matter and it would be open to the parties to take recourse to such remedies as may be available to them in law. The appeal is disposed of with the aforementioned observation and direction.”