ITEM NO.23 Court 5 (Video Conferencing)

SECTION XVII

SUPREME COURT OF INDIA RECORD OF PROCEEDINGS

Civil Appeal No(s).3858/2020

VOLKSWAGEN FINANCE PRIVATE LIMITED

Appellant(s)

VERSUS

SHREE BALAJI PRINTOPACK PVT. LTD. & ANR.

Respondent(s)

(WITH IA NO.123999/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.124000/2020-STAY APPLICATION)

Date: 07-01-2021 This appeal was called on for hearing today.

CORAM:

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MS. JUSTICE INDIRA BANERJEE HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s) Mr. Sanjeev Sagar, Adv.

Mr. Shekhar Raj Sharma, Adv.

Mr. Jinendra Jain, AOR

For Respondent(s) Mr. Sharad Tyagi, Adv. (R-1)

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

- We have heard Mr Sanjeev Sagar, learned counsel appearing on behalf of the appellant and Mr Sharad Tyagi, learned counsel appearing on behalf of the first respondent.
- 2 Mr Sanjeev Sagar undertakes to serve a copy of the paper book to the learned counsel for the first respondent.
- It has been submitted, on the basis of the provisions contained in Sections 3(30) and 3(31) of the Insolvency and Bankruptcy Code 2016¹, that:

1 "IBC"

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(i) The appellant has a security interest, created in terms of the hypothecation

agreement for a vehicle against a loan of Rs 36 lakhs advanced to the

corporate debtor;

(ii) The charge is registered under the Motor Vehicles Act 1988 and was

endorsed on the certificate of registration;

iii) The charge is recognized by the provisions of sub-section (3) and (4) of

Section 77 of the Companies Act 2013; and

(iv) The National Company Law Appellate Tribunal has erroneously interpreted

the provisions of Section 52(3) of the IBC and Regulation 21 of the

Insolvency and Bankruptcy Board of India (Liquidation Process)

Regulations 2016.

4 Issue notice, returnable on 8 February 2021.

5 Counter affidavit shall be filed, in the meantime.

Learned counsel appearing on behalf of the contesting parties shall file brief

written submissions at least one week before the next date of listing to facilitate

the final disposal of the appeal.

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(SANJAY KUMAR-I) AR-CUM-PS (SAROJ KUMARI GAUR)