

Insolvency and Bankruptcy Board of India

7th Floor, Mayur Bhawan, Connaught Place, New Delhi – 110001

25th April, 2023

Subject: Judgment¹ dated 4th April 2023 of Telangana High Court in the matter of Anirudh Agro Farms Pvt. Ltd. Vs. The State of Telangana, Writ Appeal No.414 of 2023

I. Brief Background

Liquidation proceedings commenced against M/s. Priyadarshini Spinning Mills Limited (CD) under the Code for liquidation of mortgaged fixed assets. Subsequently, liquidator issued e-auction sale notice for the fixed assets of the CD. In the e-auction, the highest bidder, upon communication by the liquidator, deposited the entire bid amount of Rs.49.92crores. Subsequently, the liquidator has issued the certificate of sale in favour of the highest bidder/appellant herein in terms of section 35(1)(f) of the Code r/w regulations 32 and 33 of Insolvency Bankruptcy (Liquidation Process) Regulations, 2016, handed over possession of auctioned property to the highest bidder. Subsequently, Liquidator issued a letter to the jurisdictional Sub-Registrar to record and file the certificate of sale issued in favour of the highest bidder in the Book no.1 in its office. However, the Sub- Registrar declined to register in the relevant books stating that such filing would attract stamp duty at par with sale under Article 47-A of the Indian Stamp Act. The highest bidder filed writ petition challenging the intimation of Sub-Registrar. As no relief was granted by Single Judge bench of HC of Telangana, appeal was filed by the highest bidder before Division bench of the same HC.

II. Issue

Whether stamp duty will be required to be paid when a certificate of sale for the filing purpose before the requisite Book no.1 in the office of Registrar?

III. Observation

The Division bench of HC while disposing of the writ appeal observed that in cases where a direction is issued for the duly validated certificate to be issued to the auction purchaser with a copy forwarded to the registering authority to be filed in Book No.1 in terms of section 89 of the Registration Act, the same will have the effect as registration and obviates any further requirements. The HC relied the SC judgment in the matter of Inspector General of Registration Vs. Madhurambal which held that sale certificate issued under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not an instrument of the kind mentioned in clause (b) of section 17 of the Registration Act.

¹ Prepared by Legal Affairs Division for the sole purpose of creating awareness and must not be used as a guide. for taking or recommending any action or decision, commercial or otherwise. One must do its own research or read the original text of the judgment or seek professional advice, if it intends to take any action or decision using the material covered here.