

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**W.P.(C) 7000/2010**

**HINDUSTAN CABLES LTD. ?Petitioner**

**Through: Mr.Vikas Singh, Senior Advocate with  
Mr.S.N.Mitra, Advocate.**

**versus**

**UOI and ORS. ?Respondents**

**Through: Mr.Neeraj Chaudhary, Advocate for R-1 to R-3.**

**Mr.Neeraj Kishan Kaul, Senior Advocate**

**with Mr.Suresh Dobhal and Ms.Ruchi**

**Kohli, Advocates for R-5.**

**CORAM:**

**HON?BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON?BLE MR. JUSTICE SIDDHARTH MRIDUL**

**ORDER**

**27.10.2010**

**1. The grievance of the writ petitioner pertains to an action taken by respondent No.5 (IFCI Ltd.) who is represented through counsel since advance copy of the writ petition has been served upon said respondent and since counsel for the petitioner and respondent No.5 agree that the writ petition may be disposed of today itself, we are so doing.**

**2. Proceedings before BIFR pertaining to reconstruction of the petitioner**

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(Corporate / Banking Laws & Taxation Advisors)

38/1A, 3rd Floor, Sodhi Complex,

Opp. Ramgarhia Gurudwara, Miller Ganj,

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are still pending and after serving a notice upon the petitioner and inviting a response, IFCI rejected the reply filed and has issued a possession notice under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and pursuant  
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thereto has taken over (symbolic) the assets of the petitioner. Simultaneously, an application has been filed before BIFR praying that it be held that proceedings before BIFR have abated on account of the fact that more than 75% of the secured creditors have decided to enforce their right under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. The said application is pending before the Board and hearing has been deferred, to be held on 8.11.2010.

3. It is the grievance of the petitioner that the action taken by IFCI violates the mandate of Section 13(9) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 inasmuch as secured creditors representing 3/4th in value of the amount outstanding have not joined.

4. Sh.Neeraj Kishan Kaul, learned senior counsel appearing for IFCI points out that LIC and UTI have joined his clients and the three are secured creditors representing in value more than 3/4th of the outstanding amounts. Learned senior counsel urges that whatever be the grievance of the petitioner the remedy is by way of appeal to the DRT under Section 17 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

5. Sh.Vikas Singh, learned senior counsel responds by urging that neither in the show-cause notice nor in the order dated 9.9.2010 has it been mentioned that LIC and UTI have

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accorded concurrence to IFCI to proceed under Section 13 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. Learned counsel draws our attention to the fact that the order dated 9.9.2010 is a non-speaking order inasmuch as it does not deal with the contentions urged by the petitioner in reply to the show-cause notice issued by IFCI.

6. We are of the opinion that this Court should not reflect upon the issues urged for the simple reason a reference is pending before BIFR under Section 15 of SICA 1985 and as per the 3rd Proviso to Section 15(1) of

SICA 1985 the reference has to abate only when the Board returns a finding that secured creditors representing not less than 3/4th in value of the amount outstanding have taken resort to a measure to recover their secured debts under Section 13 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. Needless to state, it is admitted between the parties that BIFR is seized of the issue and has yet to pass an order.

7. However, status quo requires to be maintained as of today for the simple reason BIFR has yet to pronounce upon the issue, and hence we direct that status quo as of today be maintained.

8. The writ petition is disposed of with a clarification that we have simply noted the facts and have not expressed any

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opinion upon the correctness or otherwise of the orders passed by IFCI and the action taken by IFCI.

9. No costs.

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**10. DASTI.**

**PRADEEP NANDRAJOG, J.**

**SIDDHARTH MRIDUL, J.**

**OCTOBER 27, 2010**

**dk**

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