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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3668/2021 & CM APPL. Nos. 20497/2021 & 40934/2021
EDELWEISS ASSET RECONSTRUCTION COMPANY LTD

..... Petitioner

Through: R P Agrawal, Adv, Manisha Agrawal,
Adv and Priyal Modi, Adv

versus

THE SECRETARY, DEPARTMENT OF FINANCIAL SERVICES
& ORS.

..... Respondent

Through: Mr. Ravi Prakash, CGSC. with Mr.
Farman Ali, Mr. Varun Aggarwal,
Mr. Gurtejpal Singh, Advs.
Mr. Sanjeev Bhandari, Advocate along
with Mr. Dhanajya Kumar Advocate
for DRT Bar, Chandigarh.
Mr Rajinder Wali, Adv. for DRAT
Bar Association

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
02.12.2021

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The Union of India has filed an affidavit in pursuance of our order dated 17.11.2021.

The respondent No. 1 states that in the light of the judgment of the

Division Bench of the Kerala High Court in WA No. 384/2021 titled ***M/s. Kerala Fashion Jewellery v. The Union of India***, dated 23.03.2021, it would not be possible for the Union of India to authorise the Presiding Officers of the DRTs situated in another jurisdictional State to attend to cases pending before the DRTs in Delhi. Copy of the said judgment has been placed on record.

Mr. Bhandari submits that the power of the Chairperson of the Appellate Tribunal to transfer cases within the Debt Recovery Tribunal falling within its jurisdiction under Sections 17 A (1A) & 17(2) have not been noticed by the Kerala High Court. He submits that the DRT bar association and DRAT Bar Association propose to raise the said issue before the Supreme Court by preferring a Special Leave Petition against the judgment of the Kerala High Court.

Mr. Ravi Prakash submits that under Section 4(2)(b), the Central Government has sought information from several other Tribunals if they could spare Judicial Member to man the DRTs in Delhi. However, no positive response has been received, and the Central Administrative Tribunal, Delhi has refused on the ground that they are themselves short of Judicial Members to man the said Tribunal.

We have put it to Mr. Prakash that another option available to the respondent No.1 is to, as a stop gap arrangement i.e. till the appointments are made in pursuance of the selection process in undertaken, request the High Court to depute a Judicial Member from the subordinate judiciary. There are past precedents in this regard, however, in the past, the posts were advertised against which judicial member of the subordinate judiciary had applied to serve in the DRTs on deputation.

In any event, considering the fact that there is no judicial member presently occupying any of the DRTs in Delhi and even DRATs are headless, the Union of India should, on priority consider the said option.

Let this option be also explored as a stop gap arrangement, till appointments are made through the selection process under way. The status report in this regard be filed before the next date of hearing. List on 15.12.2021.

Mr. Ravi Prakash shall serve electronic copies of the status reports filed to Mr. Wali and Mr. Bhandari. Subsequent status reports should also shared with them.

VIPIN SANGHI, J

JASMEET SINGH, J

DECEMBER 02, 2021
N.Khanna