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

+ **W.P.(C) 6855/2021 & CM APPLs.30293/2024 & 26438/2026**

Date of Decision: 22.04.2026

IN THE MATTER OF:

GARG INOX LTD & ANR.

.....PETITIONERS

Through: Mr. Samrat Nigam, Sr. Adv. with Mr. Aditya Gauri, Mr. Amar Vivek, Mrs. Damini Srestha Johri, Mr. Anant Jain, Mr. Aryan Chhabra, Adv.

versus

UNION OF INDIA & ORS.

.....RESPONDENTS

*Through: Mr. Siddharth Sangal, Ms. Mrinalini Tandon, Ms. Richa Mishra and Ms. Kashish Tewatia, Advocates for R-9.
Mr. Anurag Ojha, Mr. V. K. Saxena and Ms. Hemlata Rawat, Standing Counsels for Income Tax Department /R-4.*

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G E M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The petition has been filed for the grant of the following reliefs:
“i. Issue of a writ, order or direction, especially issuance a writ Mandamus to declaring the demand notices are illegal and arbitrary and setting aside each of the following demand notices issued by the



respondents that pertains to the period much prior to the CIRP date i.e. 25/07/2017.

ii. The each Noticed/Demands/Orders by the Respondents is as mentioned below:

- a. Demand notice dated 24.12.2018 Respondent No. 3 pertaining to period 2009-10 for a sum of Rs. 50, 00,000/- i.e. prior to the CIRP date (25.07.2017) and the same shall be waived off or quashed.
 - b. The notice from the Respondent No.4/Income Tax Department for the financial year 2009-10, 2013-14, 2015-16 and 2016-17 pertains to period prior CIRP date (25.07.2017) and any other such notices to be issued, the same shall be waived off or quashed.
 - c. The Due amount from Respondent No.5 /Regional Provident Fund Commissioner dated 18.11.2015 pertains to period 2009-10 & 05/2010 to 01/2015 i.e. prior to the CIRP date (25.07.2017) and the same shall be waived off or quashed.
 - d. Demand cum show cause notice from Respondent No.6/Commissioner of Customs, Mumbai dated 22.08.2019 pertains to the bill date 27.12.12 i.e. prior to the CIRP date (25.07.2017) and the same shall be waived off or quashed.
 - e. The notice from Respondent No.7/DGGSTI Department dated 02.08.2019 pertain to the period 2016-17 i.e. prior to the CIRP date (25/07/2017) and the same shall be waived off or quashed.
 - f. Notice from Respondent No.8/Gram Panchayat Karegaon, MIDC, Pune dated 23.10.20 pertains to period 2015-16, 2016-17 i.e. prior to the CIRP date (25.07.2017) and the same shall be waived off or quashed.
- i. Direct and Restrain Respondents not at raise any further Notices/Demands pertaining to the period prior to the CIRP i.e. 25.07.2017.
- ii. For the issuance of any other appropriate writ, order or direction, to which this Hon'ble Court may deem, fit in the facts and circumstances of the present case.
- iii. Any other suitable writ order or direction as this Hon'ble court may deem fit and proper in the facts of the case.
- iv. Filing of certified copies of Annexures be dispensed with and permit the petitioners to file photocopies of Annexures.
- v. Service of advance notice of the Writ Petition (C) on the Respondents may be dispensed with.
- vi. Summon the record of the case.”



2. It is the case of the Petitioner No. 1 company that Corporate Insolvency Resolution Process (hereinafter, “**CIRP**”) was initiated against it under the provisions of the Insolvency and Bankruptcy Code, 2016 (hereinafter, “**IBC**”) *vide* Order dated 25.07.2017, passed by the National Company Law Tribunal, New Delhi (hereinafter, “**NCLT**”). Petitioner No. 2 herein is the Successful Resolution Applicant (hereinafter, “**SRA**”) in the said CIRP. It is further submitted that *vide* Order dated 04.12.2018, the Resolution Plan submitted by Petitioner No. 2 was approved by the NCLT as per Section 31 of the IBC.

3. The petitioner is aggrieved, *inter alia*, by the issuance of the following Demand Notices by the Income Tax Department, Respondent No. 4 herein:-

| S.No. | FY | AY | DATE OF NOTICE | DEMAND AMOUNT | AMOUNT ADJUSTED IF ANY AGAINST TDS REFUND |
|-------|--|-----------|----------------|--|--|
| 1. | 2008-2009 (extended due date for filing original Return 31.10.2019) | 2009-2010 | 29.05.2020 | The Applicant/Petitioner No.1 had received a Notice dated 29.05.2020 from the Respondent Department under Section 143(1) of the Income Tax Act, 1961 from the Income Tax Department seeking payment of total sum of Rs.6,83,244/-. | ORDER DATED 29.05.2020- The Applicant/Petitioner No.1 had received a Notice dated 29.05.2020 from the Respondent Department under Section 143(1) of the Income Tax Act, 1961 from the Income Tax Department for adjustment of |



| | | | | | |
|--|---------|---------|------------|---|--|
| | | | | | demand pertaining to the Financial Year 2009-2010 of Rs.3,38,280/- and Interest of Rs.3,44,964/- total amounting to Rs.6,83,244/- in TDS Refund of Financial Year 2019-20. 51,15,856 was refunded. |
| | 2012-13 | 2013-14 | 31.03.2016 | The Respondent Department passed assessment Order u/s 143(3) of the I.T. Act depicting total income of Rs.10,78,46,585. Accordingly, penalty proceedings were directed to be instituted under Section 27. | |

4. It appears from the record that *vide* Order dated 22.07.2021, passed during the pendency of the instant petition, this Court has effectively captured the main controversy of the matter. The relevant para of the Order dated 22.07.2021 is extracted below:

“2. The primary contention of the petitioners is that once the resolution plan in respect of petitioner no. 1 stands approved by the NCLT on 04.12.2018, no demands in respect of dues allegedly payable by the petitioner no.1 for a period prior to the initiation of the Corporation Insolvency Resolution Process (CIRP) dated 25.07.2017 could be raised thereafter.”

5. It is, thus, seen that the sole grievance of the petitioners is that the



respondents herein have issued the impugned demand notices against Petitioner No. 2, claiming dues that accrued prior to the initiation of the CIRP. According to the petitioners, all the claims due against Petitioner No. 1 prior to the initiation of the CIRP stood settled in view of the approved Resolution Plan. The petitioners rely on the judgement of the Supreme Court in *Ghanshyam Mishra & Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*¹. The relevant para has been extracted below:

“95. In the result, we answer the questions framed by us as under:
(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;
(ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect;
(iii) Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.”

6. Further, reliance is also placed on the judgement of the Supreme Court in *Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta*², wherein the following observations were made in para 7:

“107. For the same reason, the impugned Nclat judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388]

¹ (2021) 9 SCC 657.

² (2020) 8 SCC 531.



in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, Nclat judgment must also be set aside on this count.”

7. The Court finds that a Division Bench of this Court, in ***Ireo Fiverriver Pvt. Ltd. v. Income Tax Department & Anr.***³, has taken note of the decisions in ***Essar Steel*** (*supra*) and ***Ghanshyam Mishra*** (*supra*), and has held that a successful resolution applicant cannot be foisted with any liabilities other than those which are specified and factored in the Resolution Plan and which may pertain to a period prior to the Resolution Plan having been approved.

8. Similar view has been taken by this Court in another judgement of the Division Bench in ***National Sewing Thread Company Limited v. Deputy Commissioner***⁴. Para 14 of the said decision is extracted as under:

“14. Reading of the aforesaid order, clearly shows that the law is well settled that once a Resolution Plan is approved by the COC, it shall be binding on all the stakeholders. Thus, the successful Resolution Applicant starts running the business of the Corporate Debtor on a fresh slate. Considering the aforesaid, the impugned Assessment Order dated 22nd May, 2024 as well as the Notice dated 23rd May, 2024, cannot stand in the eyes of the law.”

9. A combined reading of the abovementioned judgements would

³ Order dated 05.03.2024 in W.P.(C) 12461/2022.



indicate that once a Resolution Plan has been approved by the Adjudicating Authority as per the provisions of the IBC, any claim that was not part of such Resolution Plan, would stand extinguished and cannot be enforced at a later stage. The rationale behind the “Clean Slate Theory”, as propounded by the Supreme Court, is to ensure that the resolution applicant gets a fresh start, free from any prior liabilities of the debtor. It also puts an end to further litigation by closing the doors for any future claims by the creditors.

10. The Court, thus, taking note of the impugned demand/ payment notices issued by the Respondents, observes that the claims therein had arisen prior to 25.07.2017, i.e., before the initiation of the CIRP. The claim sought to be recovered by way of the Demand Notice dated 30.09.2019, issued by Respondent No. 4, dates back to the year 2009-10. Similarly, the Demand Notice dated 18.11.2015, issued by Respondent No. 5, relates to a claim dating back to the year 2009-10, and May 2010 to January 2015.

11. Therefore, keeping in view the facts and circumstances in the instant petition, the Court finds that the “Clean Slate Theory” squarely applies to the case at hand.

12. Accordingly, the petition is allowed. The impugned demand notices issued by the respondents *qua* claims arising prior to the approval of the Resolution Plan are, thus, set aside.

(PURUSHAINDR KUMAR KAURAV)
JUDGE

APRIL 22, 2026

Ab/sv

⁴ Order dated 24.06.2024W.P.(C) 8679/2024.