[2025] 3 S.C.R. 1200 : 2025 INSC 401

M/s JSW Steel Limited
v.
Pratishtha Thakur Haritwal & Ors.

(Contempt Petition (Civil) No. 629 of 2023
In
Writ Petition (Civil) No. 1177 of 2020)

27 March 2025

[B.R. Gavai* and Augustine George Masih, JJ.]

Issue for Consideration

Whether the case of the present Petitioner is specifically covered by the judgment of this Court in the case of *Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited and Others* [2021] 13 SCR 737; After the said judgment was brought to the notice of the respondents/authorities, whether the respondents/authorities could have proceeded with the recovery proceedings.

Headnotes†

Insolvency and Bankruptcy Code, 2016 – Contempt of Courts Act, 1971 – s.2(b) – Insolvency proceedings were initiated against an erstwhile company – The petitioner-company was declared as the Successful Resolution Applicant – Resolution Plan was submitted – The NCLT approved the Resolution Plan – Pursuant thereto, the management of the erstwhile company was taken over by the petitioner company – Thereafter, various demand notices were raised upon the petitioner company for recovery of Sales Tax, Central Tax and Entry Tax – Petitioner-company contended that the act of the respondents in initiating proceedings for the dues which are not part of the Resolution Plan are on the face of it contemptuous in nature and in violation of the law laid down by this Court in the case of Ghanshyam Mishra – Correctness:

Held: In view of clear pronouncement of law by this Court, all the dues of any of the stakeholders including the statutory dues owed to the Central Government, any State Government or any

* Author

local authority, which were not part of the Resolution Plan, stood extinguished from the date on which the Resolution Plan stood approved – 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 RP 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 – In the instant case, there is no hesitation in holding that the demands raised by the respondents/authorities for a period prior to the date on which the NCLT has approved the Resolution Plan were totally contemptuous in nature – The respondents could not have raised the said demands inasmuch as they are not part of the Resolution Plan – In spite of public notice, neither the State of Chhattisgarh nor its authorities raised any claim before the CoC – In that view of the matter, this Court is of the considered view that the case of the present Petitioner is specifically covered by the judgment of this Court in the case of Ghanshyam Mishra, which judgment was brought to the notice of the respondents/authorities, the respondents/ authorities could not have proceeded with the recovery proceedings. [Paras 22, 24, 27, 33]

Case Law Cited

Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited and Others, **Civil Appeal No. 8129 of 2019 decided on 13.04.2021 by the Supreme Court of India : 2021 INSC 250 : [2021] 13 SCR 737 – relied on.**

State Tax Officer v. Rainbow Papers Limited **[2022] 13 SCR 808 : (2023) 9 SCC 545 – distinguished.**

Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others **[2019] 16 SCR 275 : (2020) 8 SCC 531;** *Innoventive Industries Ltd. v. ICICI Bank & Anr.* **[2017] 8 SCR 33 : (2018) 1 SCC 407;** *K. Shashidhar v. Indian Overseas Bank and Others* **[2019] 3 SCR 845 : (2019) 12 SCC 150;** *Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others* **[2020] 2 SCR 1157 : (2020) 11 SCC 467;** *Karad Urban Cooperative Bank Ltd. v. Swwapnil Bhingardevay & Ors.*

[2020] 13 SCR 465 : (2020) 9 SCC 729; *Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another* **[2021] 2 SCR 677 : 2021 SCC OnLine SC 204;** *K.N. Rajakumar v. V. Nagarajan and Others* **(2022) 4 SCC 617;** *Ruchi Soya Industries Limited and Others v. Union of India and Others* **(2022) 6 SCC 343;** *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited* **[2023] 4 SCR 986 : (2023) 10 SCC 545 : 2023 SCC OnLine SC 266 – referred to.**

List of Acts

Insolvency and Bankruptcy Code, 2016; Contempt of Courts Act, 1971; Constitution of India; Central Sales Tax Act, 1956, Chhattisgarh Value Added Tax Act, 2005 and Entry Tax Act, 1976.

List of Keywords

Willful disobedience of judgment; Insolvency proceedings; Resolution Plans; Demand notices; Statutory dues of the central or state government; Dues which are not part of Resolution Plan; Undecided claims; Contemptuous; Stakeholder; Party to proceedings.

Case Arising From

CIVIL ORIGINAL/INHERENT JURISDICTION: Contempt Petition (Civil) No. 629 of 2023

In

Writ Petition (Civil) No. 1177 of 2020

From the Judgment and Order dated 13.04.2021 of the Supreme Court of India in WC No. 1177 of 2020

Appearances for Parties

Advs. for the Appellant:
Gopal Jain, Sr. Adv., Ms. Nandini Gore, Akhil Abraham Roy, Mohammad Shahyan Khan, Ms. Manvi Rastogi, M/S. Karanjawala & Co.

Advs. for the Respondents/Alleged Contemnors:
Ms. Pragati Neekhra, Aditya Bhanu Neekhra, Atul Dong, Aniket Patel.

Judgment / Order of the Supreme Court

Judgment

B.R. Gavai, J.

1. For the reasons stated, I.A. No. 21914 of 2024 for amendment of cause title is allowed. Cause Title is amended accordingly.

2. This Contempt Petition is filed by the Petitioner Company- M/s JSW Ispat Special Products Limited (now M/s JSW Steel Limited) under Article 129 read with Article 142 of the Constitution of India and Section 2(b) of the Contempt of Courts Act, 1971 alleging willful disobedience of the judgment dated 13th April 2021 passed by this court in Civil Appeal No. 8129 of 2019 and other connected matters titled as "***Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited and others"*** by the alleged Contemnors/Respondents.

3. Shorn of unnecessary details, the facts which led to the filing of the present Contempt Petition are:

   3.1. Insolvency proceedings were initiated against the erstwhile Company- M/s Monnet Ispat and Energy Ltd.[1] as per the Insolvency and Bankruptcy Code, 2016[2]. After the Insolvency process was initiated, the Interim Resolution Professional[3] was appointed as per the Code, and it was determined that the total debt upon the erstwhile Company was much more than its liquidation value. As per the regulations, an advertisement inviting claims against the erstwhile Company, which were to be submitted to the IRP was issued on 27th July 2017 and the last date for submission of the claim was 7th August 2017. After the claims process was over, the announcement for submission of Resolution Plans by companies was issued. The Petitioner Company was declared as the Successful Resolution

1 "erstwhile Company" for short

2 "the Code" for short

3 "IRP" for short

Applicant[4] after voting by the Committee of Creditors[5], and the Resolution Plan was submitted on 12th December 2017. The National Company Law Tribunal, Mumbai Bench[6], approved the Resolution Plan vide order dated 24th July 2018 and pursuant to the same, the management of the erstwhile Company was taken over by the Petitioner Company.

3.2. Thereafter, various demand notices were raised upon the Petitioner Company by the Odisha Mining Corporation Ltd. for recovery of Sales Tax against iron ore purchased by the erstwhile Company. Aggrieved by the demand notices, claiming that the dues were extinguished as per the Code because they were raised for a period before the management of the erstwhile Company was taken over by the Petitioner Company, a Writ Petition (Civil) No. 1177 of 2020 was filed before this Court.

3.3. Various similar matters were tagged together by this Court, including the aforesaid Writ Petition. Vide a common judgment in the case of ***Ghanshyam Mishra*** (supra), it was held that any and all creditors, including the Central Government, State Government or any local authority are bound by the Resolution Plan as approved by the Adjudicating Authority and all claims which are not a part of the Resolution Plan stand extinguished.

3.4. It appears that thereafter the alleged Contemnor No. 3-Assistant Commissioner, Commercial Taxes, Division-II, Raipur, Chhattisgarh issued a notice dated 15th September 2021. It was stated that the Petitioner Company being a nationalized dealer had not submitted the return or statement for the period from 1st April 2017 to 30th June 2017 and the Petitioner Company was directed to appear in person or through an authorized representative for assessment proceedings before the office of the Divisional Deputy Commissioner, Commercial Taxes, Division-II and to furnish the books of accounts and documents relating to the above period and to show cause as to why the Petitioner Company should not be assessed with a penalty. The Petitioner Company sent a reply dated 8th October 2021

4 "SRA" for short

5 "CoC" for short

6 "NCLT" or "Adjudicating Authority" for short

to the alleged Contemnor No. 3 stating that the erstwhile Company has undergone a Corporate Insolvency Resolution Process[7] and in light of the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra), no dues or liabilities of the erstwhile Company which pertain to the period prior to the taking over of the erstwhile Company by the Petitioner Company and which are not part of the Resolution Plan are not required to be paid as the dues or liabilities stand permanently extinguished. A request was therefore made to withdraw the notice dated 15th September 2021.

3.5. The Petitioner Company thereafter filed a Miscellaneous Application being M.A. No. 259 of 2022 in Writ Petition (Civil) No. 1177 of 2020 seeking clarification of directions given in paragraph 95 of the judgment given by this Court in the case of ***Ghanshyam Mishra*** (supra). The same was dismissed as withdrawn with a liberty to file a Contempt Petition by an order dated 2nd May 2022.

3.6. On 13th May 2022, the Petitioner Company issued a letter to the alleged Contemnor No. 1- Assistant Commissioner, Commercial Tax Department, Raipur-II, Raipur, Chhattisgarh, informing him about the order of this Court dated 2nd May 2022 and requesting him that the law laid down by this Court in the case of ***Ghanshyam Mishra*** (supra) be adhered to, and any failure to do the same would result in the Petitioner Company initiating contempt proceedings.

3.7. It appears that, in spite of the aforesaid letter by the Petitioner Company, the alleged Contemnor No. 1 went ahead and issued a demand notice dated 17th May 2022 wherein it was stated that since no one had appeared representing the Petitioner Company to get the tax assessment done, an *ex parte* decision must be taken. The decision resulted in three separate demands under the relevant provisions of Central Sales Tax Act, 1956, Chhattisgarh Value Added Tax Act, 2005 and Entry Tax Act, 1976 for the outstanding amount of Central Tax- Rs. 1,08,25,666/, State Tax- Rs. 2,66,42,094/-, and Entry Tax- Rs. 61,51,689/- for the period between 1st April 2017 to 30th June 2017 and the

7 "CIRP" for short

Petitioner Company was directed to pay the amounts within 30 days of receipt of the demand notice. A reply dated 10th October 2022 was given by the Petitioner Company stating that it is not liable to pay any dues as the period for which the demand is raised is of a period before the approval of the Resolution Plan by the Adjudicating Authority. It was therefore requested that the demand notices be withdrawn in view of the judgment of this Court given in ***Ghanshyam Mishra*** (supra).

3.8. It can further be seen from the record that the alleged Contemnor No. 2-Additional Revenue Collector, Commercial Tax Office, Circle-7, Raipur, Government of Chhattisgarh, issued another demand notice to the Petitioner Company dated 9th December 2022 under Section 146 of the Chhattisgarh Land Revenue Code, 1959 containing three separate demands of Central Tax, Sales Tax and Entry Tax for the same amounts as the demand notice dated 17th May 2022 and the Petitioner Company was again directed to pay the outstanding dues within 7 days.

3.9. Being aggrieved by the actions of the alleged contemnors which according to the Petitioner Company were in willful disobedience of the judgment of this Court given in the case of ***Ghanshyam Mishra*** (supra), the present Contempt Petition came to be filed.

4. Vide order dated 20th February 2023, we had issued notice in the present Contempt Petition, returnable in four weeks. By the said order, we had dispensed with the personal presence of the alleged contemnors until specific orders were passed.

5. In response to the notice, the respondents have submitted their replies.

6. We have heard Mr. Gopal Jain, learned Senior Counsel appearing for the Petitioner Company and Ms. Pragati Neekhra, learned Counsel for the alleged Contemnors/Respondents.

7. Mr. Gopal Jain, learned Senior Counsel submitted that the act of the respondents in initiating proceedings for the dues which are not part of the Resolution Plan are on the face of it contemptuous in nature and in violation of the law laid down by this Court in the case of ***Ghanshyam Mishra*** (supra).

8. He submits that once a Resolution Plan is duly approved by the Adjudicating Authority under sub-section (1) of Section 31 of the Code, all claims not included in the Resolution Plan are deemed to

be frozen and binding on all the stakeholders. It is submitted that this Court has in unequivocal terms clarified that the word "other stakeholders" as mentioned in Section 31(1) of the Code also includes Central, State and any other local authority.

9. It is further submitted that though the Petitioner Company had informed the contemnors/respondents about the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra) and specifically informed about the order passed in the aforesaid judgment specifically with regard to the Petitioner Company, the contemnors have chosen to proceed further with the recovery proceedings. It is, therefore, submitted that their act amounts to willful disobedience of the orders of this Court.

10. Mr. Gopal Jain further submitted that despite a public announcement, the respondents/contemnors failed to file the claim during the resolution process. The demand raised by the contemnors were belated and raised after the approval of the Resolution Plan. It is submitted that the provisions of the Code are clear inasmuch as, after the public announcement, all the creditors including the Central Government, State Government and local authorities are required to come forward and put up their claims before the Resolution Plan. It is submitted that once the Resolution Plan is approved by the Adjudicating Authority, the SRA starts running of the business from a "clean slate".

11. *Per contra*, Ms. Pragati Neekhra, learned counsel, appearing for the respondents/alleged contemnors submits that the alleged contemnors are the responsible Government Officers and law-abiding citizens. She submits that the demand notices were issued in good faith and not to undermine the dignity of this Court in any manner. She submits that there has been no intention on the part of the alleged contemnors to disobey or disregard the orders passed by this Court.

12. Ms. Pragati Neekhra further submitted that the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra) was not applicable in the present case inasmuch as neither the State of Chhattisgarh nor any of the authorities were made parties in the insolvency proceedings before the NCLT. She submits that the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra) would not bind the respondents and as such, a case of contempt was not made out. It is submitted that the learned NCLT could not have passed an order which ignored

all the Government dues including the indirect taxes which is billed and collected by the Debtor Company. It is submitted that the State was entitled to its dues under the Chhattisgarh Value Added Tax Act 2005, Central Sales Tax Act, 1956 and Entry Tax Act, 1976 for the period between 1st April 2017 and 30th June 2017. As such, the alleged contemnor No.2 had rightly raised 3 (three) separate demand notices on 9th December 2022 under Section 146 of the Chhattisgarh Land Revenue Code, 1959. She submits that since the erstwhile Company had neither filed their returns nor paid the dues, the alleged contemnors were justified in raising the demand notices. To buttress her submissions, Ms. Neekhra has relied on the judgment of this Court in the case of ***State Tax Officer v. Rainbow Papers Limited***[8].

13. She further submits that the Petitioner Company herein had sought clarification of the judgment of this Court dated 13th April, 2021 in the case of ***Ghanshyam Mishra*** (supra) by filing a Miscellaneous Application being M.A. No.259 of 2022 in Writ Petition (Civil) No.1177 of 2022 which is rejected by this Court. As such, the present Contempt Petition is not at all tenable.

14. The legal position is no more *res integra*. This Court in the case of ***Ghanshyam Mishra*** (supra) has considered a batch of petitions. The questions which fell for consideration before the Court were as under:

> "(i) As to whether any creditor including the Central Government, State Government or any local authority is bound by the Resolution Plan once it is approved by an adjudicating authority under sub-section (1) of Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code')?
>
> (ii) As to whether the amendment to Section 31 by Section 7 of Act 26 of 2019 is clarificatory/declaratory or substantive in nature?
>
> (iii) As to whether after approval of resolution plan by the Adjudicating Authority a creditor including the Central Government, State Government or any local authority is entitled to initiate any proceedings for recovery of

8 (2023) 9 SCC 545

any of the dues from the Corporate Debtor, which are not a part of the Resolution Plan approved by the adjudicating authority?"

15. Though the judgment is titled as "***Ghanshyam Mishra and sons Private Limited through the Authorized Signatory versus Edelweiss Asset Reconstruction Company Limited through the Director & Ors.****",* this Court was seized of a batch of cases and the case of the present petitioner was very much up for consideration in the said batch of cases.

16. The Petitioner Company had filed Writ Petition (Civil) No.1177 of 2020 (***M/s Monnet Ispat & Energy Ltd. & Anr. v. State of Odisha & Anr.***). This Court after considering various judgments of this Court, at length, on the issue answered the questions as under:

> **"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 sub-section (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***."
>
> [Emphasis supplied]

17. It is thus clear that this Court in unequivocal terms held that all such claims which are not a part of the 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. The Court further held that the 2019 amendment to Section 31 of the Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect. The Court clearly held that all the dues including the statutory dues owed to the Central Government, or 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.

18. Insofar as the present Petitioner is concerned, the Court considered its case in Paragraphs 133 to 140. It will be relevant to refer to paragraph 140, which reads as under:

> **"140.** We hold and declare, that the respondents are not entitled to recover any claims or claim any debts owed to them from the Corporate Debtor accruing prior to the transfer date. Needless to state, that the consequences thereof shall follow."

19. In the said Writ Petition (No.1177 of 2020), after the completion of CIRP on 5th January 2019, the respondent No.2 therein had sent a reminder to the Petitioner Company calling upon it to pay an amount of Rs.4,49,34,917.00 towards the service tax, etc. for the period between 1st April 2016 to 30th June 2017. In spite of the provisions of the Code pointed out by the Petitioner Company in reply to the notice of the respondents/authorities, the demand was pursued and as such, the present Petitioner was required to approach this Court.

20. It will be relevant to note that this Court had also referred to an order dated 10th August 2018 passed in Special Leave Petition (Civil) No.6483 of 2018. In that matter, the Income Tax Authorities had challenged the judgment and order of the Delhi High Court vide which the Delhi High Court had held that in view of the provisions of Section 238 of the Code, the income tax dues after the acceptance of Resolution Plan by the RP stood extinguished.

21. It will be relevant to refer to the order dated 10th August 2018 passed by this Court in Special Leave Petition (Civil) No.6483 of 2018, which reads thus:

> "Heard.
>
> Delay, if any, is condoned.
>
> Given Section 238 of the Insolvency and Bankruptcy Code, 2016, it is obvious that the Code will override anything inconsistent contained in any other enactment, including the Income-Tax Act.
>
> We may also refer in this Connection to Dena Bank vs. Bhikhabhai Prabhudas Parekh and Co. & Ors. (2000) 5 SCC 694 and its progeny, making it clear that income-tax dues, being in the nature of Crown debts, do not take precedence even over secured creditors, who are private persons.
>
> We are of the view that the High Court of Delhi, is, therefore, correct in law.
>
> Accordingly, the Special Leave Petitions are dismissed.
>
> Pending applications, if any, stand disposed of."

22. It can thus be seen that in view of clear pronouncement of law by this Court, all the dues of any of the stakeholders including the statutory dues owed to the Central Government, any State Government or any local authority, which were not part of the Resolution Plan, stood extinguished from the date on which the Resolution Plan stood approved.

23. It is to be noted that even much prior to the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra), a 3 Judge Bench of this Court in the case of ***Committee of Creditors of Essar Steel India***

Limited through Authorised Signatory v. Satish Kumar Gupta and others[9] has observed thus:

> "**107.** For the same reason, the impugned NCLAT judgment [*Standard Chartered Bank* v. *Satish Kumar Gupta*, 2019 SCC OnLine NCLAT 388] 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."
>
> [Emphasis supplied]

24. It can thus clearly be seen that this Court has held that 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. It has also been held that all claims must be submitted to and decided by the RP so that a prospective resolution applicant

9 (2020) 8 SCC 531

knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor.

25. In ***Ghanshyam Mishra*** (supra), this Court has referred to the judgments on the issue in the following cases:

    (i) ***Innoventive Industries Ltd.*** vs. ***ICICI Bank & Anr.***[10]***;***

    (ii) ***K. Shashidhar v. Indian Overseas Bank and Others***[11]***;***

    (iii) ***Committee of Creditors of Essar Steel India Limited Through Authorized Signatory v. Satish Kumar Gupta and Others***[12]***;***

    (iv) ***Maharashtra Seamless Limited v. Padmanabhan Venkatesh and others***[13]***;***

    (v) ***Karad Urban Cooperative Bank Ltd.*** vs. ***Swwapnil Bhingardevay & Ors.***[14]; and

    (vi) ***Kalpraj Dharamshi and Another*** vs. ***Kotak Investment Advisors Limited and Another***[15]***.***

26. The law laid down by this Court in the case of ***Ghanshyam Mishra*** (supra) has been followed by various subsequent judgments of this Court in the following cases:

    (i) ***K.N. Rajakumar v. V. Nagarajan and others***[16]***;***

    (ii) ***Ruchi Soya Industries Limited and others v. Union of India and others***[17]***;***

    (iii) ***Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited***[18]***.***

27. In that view of the matter, we have no hesitation in holding that the demands raised by the respondents/authorities for a period prior to the date on which the learned NCLT has approved the Resolution

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10 (2018) 1 SCC 407

11 (2019) 12 SCC 150

12 (2020) 8 SCC 531

13 (2020) 11 SCC 467

14 (2020) 9 SCC 729

15 2021 SCC OnLine SC 204

16 (2022) 4 SCC 617

17 (2022) 6 SCC 343

18 (2023) 10 SCC 545 : 2023 SCC OnLine SC 266

Plan were totally contemptuous in nature. The respondents could not have raised the said demands inasmuch as they are not part of the Resolution Plan.

28. Coming next to the submission of learned counsel for the respondents/ alleged contemnors, insofar as reliance placed by her on the judgment of this Court in the case of ***Rainbow Papers Limited*** (supra) is concerned, in the said case, this Court was considering the question as to whether the provisions of the Code and in particular Section 53 thereof override Section 48 of the Gujarat Value Added Tax Act, 2003. We find that, on facts, the said judgment is not applicable to the present case.

29. In the said case, in response to the advertisement issued by the RP, the State Tax Officer raised its claim before the RP. The claim of the State Tax Officer was rejected by the Committee of Creditors[19]. The learned NCLT also rejected the claim of the State Tax Officer and an appeal thereagainst also came to be dismissed by the National Company Law Appellate Tribunal[20]. Aggrieved thereby the State Tax Officer approached this Court.

30. This Court held that when a grievance was made before the Adjudicating Authority with regard to the Resolution Plan, the Adjudicating Authority was required to examine if the Resolution Plan met the requirements of Section 30(2) of the Code. This Court also held that under Section 31 of the Code, while approving the Resolution Plan as approved by the CoC, the Adjudicating Authority must come to a satisfaction that the Resolution Plan meets the requirements as referred to in sub-section (2) of Section 30 of the Code. It has further been held by this Court that the condition precedent for approval of a Resolution Plan was that it should meet the requirements of sub-section (2) of Section 30 of the Code.

31. In that view of the matter, we are of the considered opinion that the facts in the case of ***Rainbow Papers Limited*** (supra) are totally distinguishable to the facts of the present case.

32. In ***Rainbow Papers Limited*** (supra), the State Tax Officer had raised the claim before the CoC, which was not taken into consideration by

19 "CoC" for short

20 "NCLAT" for short

the CoC. As such, this Court came to a finding that the satisfaction arrived at by the Adjudicating Authority under Section 31 of the Code was vitiated.

33. Undoubtedly, in the present case, in spite of public notice, neither the State of Chhattisgarh nor its authorities raised any claim before the CoC. In that view of the matter, we are of the considered view that the case of the present Petitioner is specifically covered by the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra), which judgment was brought to the notice of the respondents/ authorities, the respondents/authorities could not have proceeded with the recovery proceedings.

34. When the law laid down by this Court in the case of ***Ghanshyam Mishra*** (supra) is clear and unambiguous and specifically when the Petitioner's own case was part of the batch which is specifically dealt with by this Court, the respondents/alleged contemnors ought not to have proceeded further with the recovery proceedings and ought to have dropped them forthwith. The continuation of such proceedings despite the judgment and order of this Court being pointed out to their notice is nothing but contemptuous in nature.

35. We have, therefore, no hesitation in holding that the continuation of the proceedings by the respondents/authorities even after the judgment of this Court in ***Ghanshyam Mishra*** (supra) was specifically brought to their notice is contemptuous in nature. However, we do not propose to proceed against the respondents/contemnors inasmuch as they are entitled to benefit of doubt.

36. It is the contention of the alleged contemnors that the State of Chhattisgarh was not a party to the Writ Petition or to the proceedings before the learned NCLT. No doubt that even if any stakeholder is not a party to the proceedings before the NCLT and if such stakeholder does not raise his claim before the Interim Resolution Professional/ Resolution Professional, the Resolution Plan as approved by the NCLT would still be binding on him. However, this being one of the first cases arising out of the judgment of this Court in the case of ***Ghanshyam Mishra*** (supra), we do not propose to take any stern action against the respondents/contemnors. In any case, the respondents/ contemnors have tendered their unconditional apology.

37. In this view of the matter, though we hold that the act of the alleged contemnors is contemptuous in nature, we do not propose to take any action against them. The demand notices issued by the contemnors on the Petitioner Company and all proceedings pursuant thereto are held to be illegal and the same are quashed and set aside. We dispose of the contempt petition accepting unconditional apology of the contemnors.

Result of the case: Contempt petition disposed of.

†*Headnotes prepared by:* Ankit Gyan