

**BEFORE THE FULL BENCH, ODISHA SALES TAX TRIBUNAL:  
CUTTACK**

**S.A. No. 25 (C) of 2013-14**

(Arising out of order of the learned JCST, Sundargarh Range,  
Rourkela in Appeal No. AA 35 (RL-II-C) of 2009-10,  
disposed of on 30.03.2013)

Present: **Shri G.C. Behera, Chairman**  
**Shri S.K. Rout, 2<sup>nd</sup> Judicial Member &**  
**Shri B. Bhoi, Accounts Member-I**

M/s. Adhunik Metaliks Ltd.,  
At- Chadrihariharpur, Kuarmunda,  
Dist. Sundargarh ... Appellant

-Versus-

State of Odisha, represented by the  
Commissioner of Sales Tax, Odisha,  
Cuttack ... Respondent

For the Appellant : Sri S.K. Acharya, Advocate  
For the Respondent : Sri S.K. Pradhan, Addl. SC (CT)

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Date of hearing : 14.03.2024 \*\*\* Date of order : 28.03.2024

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**ORDER**

Dealer is in appeal against the order dated 30.03.2013 of the Joint Commissioner of Sales Tax, Sundargarh Range, Rourkela (hereinafter called as 'First Appellate Authority') in F A No. AA 35 (RL-II-C) of 2009-10 reducing the tax demand raised in assessment order of the Sales Tax Officer, Rourkela II Circle, Panposh (in short, 'Assessing Authority').

2. Briefly stated, the facts of the case are that –

M/s. Adhunik Metaliks Ltd. carries on business in manufacture of sponge iron, iron ingot, pig iron and case iron. The assessment relates to the year 2005-06. The Assessing Authority raised tax demand of ₹16,22,361.00

u/r. 12(5) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules').

Dealer preferred first appeal against the order of the Assessing Authority before the First Appellate Authority. The First Appellate Authority reduced the tax demand to ₹13,73,908.00 and allowed the appeal in part. Being aggrieved with the order of the First Appellate Authority, the Dealer prefers this appeal. Hence, this appeal.

The State files cross-objection.

3. The learned Counsel for the Dealer submits that the claim of the State is no longer enforceable in view of Section 31(1) r/w. Section 238 of IBC. He also contends that the Hon'ble NCLT has accepted the resolution plan and the State had not advanced its claim before the Hon'ble NCLT and the Hon'ble NCLAT has also confirmed the finding of the Hon'ble NCLT. He further submits that Hon'ble Apex Court and Hon'ble Court have been pleased to quash the demands of the State as the State has not advanced its claim before the Hon'ble NCLT. So, he submits that the orders of the First Appellate and Assessing Authority are liable to be quashed in the ends of justice.

He relies on the decisions of the Hon'ble Apex Court in cases of *Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited*, 2021 SCC OnLine SC 313; and *State of Odisha & others v. Adhunik Metaliks Ltd.* (SLP (C) No. 43247/2023, decided on 26.02.2024); Hon'ble Court in cases of *Adhunik Metaliks Ltd. v. State of Odisha and others* (W P (C) No. 1553 of 2022 & batch, decided on 08.12.2022) and *M/s. Adhunik Metaliks Ltd. v. Commissioner of Sales Tax and another* (W P (C) Nos. 7086, 7087 & 7088 of 2016, decided on 21.02.2023); orders of the Hon'ble NCLT, Kolkata Bench in case of *State Bank of India v. Adhunik Metalliks Limited and others* (C A (IB) Nos. 595, 613 & 614/KB/2018, dated 17.07.2018; and Hon'ble NCLAT, New Delhi in case of *Liberty House Group Pte. Ltd. v. State Bank of India &*

*others* (C A (AT) (Insolvency) No. 724 of 2019, dated 03.03.2020; and order of this Tribunal in case of *M/s. Sree Metaliks Ltd. v. State of Odisha* (S.A. No. 52 (VAT) of 2022 & S.A. No. 34 (ET) of 2022, dated 18.07.2023).

4. On the other hand, the learned Addl. Standing Counsel (CT) for the State submits that the claim of the State is a contingent claim and the same cannot be extinguished as per the decision of Hon'ble Apex Court in case of *Sales Tax Officer v. Rainbow Papers Ltd.*, 2002 SCC OnLine SC 1162. So, he submits that the orders of the First Appellate Authority and Assessing Authority need no interference in appeal.

5. Heard the rival submissions, gone through the orders of the Assessing Authority and First Appellate Authority vis-a-vis the materials on record. The assessment order reveals that the Assessing Authority determined the GTO at ₹40,83,02,845.00 and NTO at ₹39,65,04,925.00. The Assessing Authority computed the tax at the appropriate rates and raised the tax of ₹16,32,361.00 after adjustment of tax paid. The Dealer preferred first appeal and the First Appellate Authority reduced the tax demand to ₹13,73,908.00.

The Dealer has taken several grounds including the maintainability of proceeding on the ground that the claim of the State stands extinguished as the State has not advanced its claim before the Hon'ble NCLT. In course of hearing, the Dealer pressed the preliminary ground before taking up rest of the grounds.

6. During hearing, the Dealer filed the copy of order dated 17<sup>th</sup> July, 2018 of the Hon'ble NCLT passed in C A No. 595, 613 & 614/KB/2016 relating to the instant Dealer and other orders. He also submits that the claim of the State stands extinguished as per Section 31 r/w Section 238 of IBC since the State has not advanced its claim before the Hon'ble NCLT. He further contends that the finding of the Hon'ble NCLT has also been affirmed by the Hon'ble NCLAT.

The orders dated 08.12.2022 & 21.02.2023 passed by the Hon'ble Court in **W P (C) No. 1553 of 2022 & batch and W P (C) Nos. 7086-7088 of 2016** relating to the instant Dealer, wherein Hon'ble Court have been pleased to quash all the demands of the State of Odisha. The State challenged the said orders of the Hon'ble Court before the Hon'ble Apex Court in **SLP (C) No. 43247/2023**, wherein vide order dated 26.02.2026 their Lordships' have been pleased to dismiss the SLP with the following observations :-

“Having regard to the amendment made to Section 31 of the Insolvency and Bankruptcy Code, 2016 vide Section 7 of the Act of 26 of 2019 with effect from 16.08.2019 which has been interpreted by a three Judge Bench in the case of ***Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited*** [2021 SCC OnLine SC 313] and in particular the conclusions reached in paragraphs No. 102.1 and 102.3, we are not inclined to interfere in the matter.”

7. In view of the verdicts of the Hon'ble Apex Court and the Hon'ble Court, the demands of the State can no longer be enforced against the Dealer as per Section 31(1) r/w. Section 238 of IBC. Hence, it is ordered.

8. Resultantly, the appeal of the Dealer stands allowed and the impugned order of the First Appellate Authority and order of assessment are hereby quashed. Cross-objection is disposed of accordingly.

**Dictated & Corrected by me**

**Sd/-  
(G.C. Behera)  
Chairman**

**Sd/-  
(G.C. Behera)  
Chairman**

**I agree,**

**Sd/-  
(S.K. Rout)  
2<sup>nd</sup> Judicial Member**

**I agree,**

**Sd/-  
(B. Bhoi)  
Accounts Member-I**