

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

S.A. No. 52 (VAT) of 2022

&

S.A. No. 34 (ET) of 2022

(Arising out of orders of the learned Addl. CST (Appeal), Central Zone, Odisha (At-Cuttack) in Appeal Nos. AA – 106102010000013/2020-21 & AA- 108102010000014/2020-21, disposed of on 26.05.2022)

Present: **Shri G.C. Behera, Chairman**
Shri S.K. Rout, 2nd Judicial Member &
Shri B. Bhoi, Accounts Member-II

M/s. Sree Metaliks Ltd.,
SML House, Main Road, Barbil,
Dist. Keonjhar ... Appellant

-Versus-

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

For the Appellant : Sri Sidhartha Ray, Sr. Advocate &
Sri K.K. Sahoo, Advocate
For the Respondent : Sri Sunil Mishra, S.C. (CT)
Sri S. Das, Addl. SC (CT) &
Sri A. Das, Addl. SC (CT)

Date of hearing : 19.06.2023 *** Date of order : 18.07.2023

ORDER

Since the facts & point of law involved being common in both these appeals between the same parties and for same assessment period though under different Acts, they are taken up for disposal in this composite order for the sake of convenience.

S.A. No. 52 (VAT) of 2022 :

2. Dealer is in appeal against the order dated 26.05.2022 of the Addl. Commissioner of Sales Tax (Appeal), Central Zone, Odisha (At-Cuttack) (hereinafter called as 'First Appellate Authority') in F A No. AA – 106102010000013/2020-21 setting aside assessment order of the Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road (in short, 'Assessing Authority').

S.A. No. 34 (ET) of 2022 :

3. Dealer also assails the order dated 26.05.2022 of the First Appellate Authority in F.A. No. AA- 108102010000014/2020-21 setting aside assessment order of the Assessing Authority.

4. The Dealer preferred writ petition challenging assessment orders 17.06.2017 before the Hon'ble Court vide WP (C) Nos. 10012 of 2020 & 10126 of 2020 , wherein the Hon'ble Court was pleased to direct the Dealer to file first appeal before the First Appellate Authority. First Appellate Authority rejected the appeals on the ground of non-deposit of statutory payment by the Dealer as per the provisions of the OVAT Act & OET Act.

Dealer challenged the said rejection orders before the Hon'ble Court in WP (C) Nos. 21226 of 2021 & 22223 of 2021, wherein the Hon'ble Court was pleased to direct the Dealer to make deposit of the required amount for disposal of appeals on merits. Accordingly, Dealer complied the direction of the Hon'ble Court.

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

M/s. Sree Metaliks Ltd. carries on business in manufacturing of sponge iron, iron ingots/billets, TMT bars, etc. by using different raw materials, i.e. iron ore, coal, sponge iron, MS billets, dolomite etc. The assessment period relates to 01.04.2013 to 31.03.2015. The Assessing Authority raised tax and penalty of ₹9,75,36,585.00 u/s. 42 of the Odisha Value Added Tax Act, 2004 (in short, 'OVAT Act') on the basis of Audit

Visit Report (AVR). Similarly, the Assessing Authority raised tax and penalty of ₹2,11,61,405.00 under the Odisha Entry Tax Act, 1999 (in short, 'OET Act') basing on the AVR.

The First Appellate Authority set aside the assessments under both the Act for reassessment by the Assessing Authority with certain observations. Being aggrieved with the orders of the First Appellate Authority, the Dealer prefers these appeals. Hence, these appeals.

6. State files cross-objections supporting the impugned orders of the First Appellate Authority to be just and proper in the facts and circumstances of the case.

7. The learned Sr. Counsel for the Dealer submits that the assessment proceeding cannot be continued during moratorium period as per the provision of Section 14 of the Insolvency & Bankruptcy Code (in short, 'I&B Code'). He further submits that the State did not claim its tax dues before the Resolution Professional (RP) and the Resolution Plan has already been accepted by the Hon'ble NCLAT, so the tax dues of the State stands extinguished. He further submits that this Tribunal has already set aside the orders of the First Appellate Authority in S.A. Nos. 30 (C) & 31(C) of 2021-22 vide order dated 21.05.2022 and the Hon'ble Court have confirmed the said order in STREV Nos. 36 & 37 of 2022 dated 07.02.2023. So, he submits that this Tribunal cannot differ from the earlier view.

Furthermore, he submits that I&B Code is a special statute, which has got an overriding effect over other Acts as per Section 238 of the I&B Code. He further submits that the State did not challenge the finding of the Hon'ble NCLAT before the higher forum and slept over the matter till approval of Resolution Plan. He also submits that similar issue for another assessment year has already been set at rest and reached its finality. The State did not challenge the same, so, the State is precluded to raise the same issue in this appeal. Therefore, he submits that the order of the First

Appellate Authority is erroneous and contrary to the provisions of law and fact involved and thus, the same needs interference in appeal.

In this regard, learned Sr. Counsel relies on decisions of the Hon'ble High Court of Orissa in cases of *State of Odisha v. M/s. Sree Metaliks Ltd.* (STREV Nos. 36 & 37 of 2022, decided on 07.02.2023); *M/s. Sree Metaliks Ltd. & another v. State of Odisha & others* (WP (C) No. 8259 of 2019, decided on 21.06.2021); *Ferro Alloys Corporation Ltd. v. State of Odisha and others* (WP (C) No. 20286 of 2020, decided on 10.12.2021); and *Siksha 'O' Anusandhan v. Commissioner of Income Tax, Orissa & Ors*, reported in 2010 SCC OnLine 314, (2011) 366 ITR 112; Hon'ble High Court of Delhi in case of *Sree Metaliks Limited v. Additional Director General & others* (WP (C) No. 3119/2021 & CM Appl. 9461/2021, decided on 16.02.2023); Hon'ble Supreme Court of India in cases of *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.* (Civil Appeal No. 8129 of 2019 with Civil Appeal Nos. 1550-1554 of 2021, decided on 13.04.2021); *Principal Commissioner of Income Tax v. Monnet Ispat & Energy Ltd.*, reported in (2018) 304 CTR (SC); *P. Mohanraj & Ors v. M/s. Shah Brothers Ispat Pvt. Ltd.* (Civil Appeal No. 10355 of 2018 with other appeals, decided on 01.03.2021); *Duncans Industries Ltd. v. A.J. Agrochem* (Civil Appeal No. 5120 of 2019, decided on 04.10.2019); *State Tax Officer (1) v. Rainbow Papers Limited* (Civil Appeal No. 1661 of 2020, decided on 06.09.2022); *Innoventive Industries Limited v. ICICI Bank & another*, reported in (2018) 1 SCC 407; *Alchemist Asset Reconstruction Co. Ltd. v. M/s. Hotel Gaudavan Pvt. Ltd. & Ors.* (Civil Appeal No. 16919 of 2017, decided on 23.10.2017); *M/s. Golden Jubilee Hotels Ltd. v. M/s. EIH Ltd. & another* (Civil Revision Petition Nos. 4881, 4884, 4885 & 4886 of 2018, decided on 27.09.2018); *Saurav Jain & Ors v. ABP Design & Ors.* (Civil Appeal No. 4448 of 2021, decided on 05.08.2021); *Mathura Prasad Bajoo Jaiswal &*

others v. Dossibai N.B. Jeejeebhoy, reported in 1970 (1) SCC 613; and *Shivkumar & others v. Sharanabasappa & others*, reported in (2021) 11 SCC 277); and order of this Tribunal in S.A. Nos. 30 (C) & 31 (C) of 2021-22 dated 21.05.2022 (*M/s. Sree Metaliks Ltd. v. State of Orissa*).

8. On the contrary, the learned Standing Counsel (CT) for the State supports the finding of the First Appellate Authority and submits that the proceeding cannot be stayed during moratorium period. He further submits that the contingent claim is within the knowledge of Resolution Professional (RP) and it is obligation of the RP to include the contingent claim of the State in the Resolution Plan. He further submits that the facts and circumstances of the case differ from case to case. So, he submits that the finding of this Tribunal for an assessment period cannot have binding value for the other periods. So, he submits that the order of the First Appellate Authority is a reasoned one and the same needs no interference in appeal.

Learned Standing Counsel (CT) relies on decisions of the Hon'ble Apex Court in the cases of *S.V. Kondaskar v. V.M. Deshpande and Ors*, reported in AIR 1972 SC 878; *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes & Customs* (Civil Appeal No. 7667 of 2021 decided on 26.08.2022); *State Tax Officer (I) v. Rainbow Papers Limited* (Civil Appeal Nos. 1661 & 2568 of 2020, decided on 06.09.2022); *Fourth Dimension Solutions Ltd. v. Ricoh India Ltd. & Ors* (Civil Appeal No. 5908 of 2021, decided on 21.01.2022); and *M/s. R.K. Industries (Unit-II) LLP v. M/s. H.R. Commercials Private Limited and other* (Civil Appeal Nos. 7722 & 7731 of 2021, decided on 26.08.2022); decisions of Hon'ble Delhi High Court in cases of *Power Grid Corporation of India Ltd. v. Jyoti Structures Ltd.* (OMP (Comm.) 397/2016, dated 11.12.2017; and *SSMP Industries Ltd. v. Rerkan Food Processors Pvt. Ltd.* (CS (COMM) 470/2016 & CC (COMM 73/2017, dated 18.07.2019; decisions of Hon'ble NCLAT, New Delhi in cases of *Jharkhand Bijli*

Vitran Nigam Ltd. v. IVRCL Ltd. (Company Appeal (AT) (Insolvency) No. 285 of 2018, dated 03.08.2018); *Puneet Kaur v. K.V. Developers Pvt. Ltd. & others*, (Company Appeal (AT) (Insolvency) Nos. 390 - 394 of 2022, decided on 01.06.2022); and *M/s. Visisth Services Ltd. v. S.V. Ramani & others*, (Company Appeal (AT) (Insolvency) No. 896 of 2020, decided on 11.01.2022); decision of Hon'ble NCLAT, Indore Bench in case of *Bank of Baroda v. Divya Jyoti Industries Ltd.* (TP 241 of 2019 [CP (IB) 628 of 2018]; decision of Hon'ble NCLAT, Mumbai Bench in case of *Gaurav Agarwal v. CA Devang P Sampat & others* (I.A. 1253/2021 in CP No. (IB) 2521/MB/2018, decided on 06.05.2022); decision of Hon'ble High Court of Gujarat in case of *Daxin Gujarat Vij Co. Ltd. v. Essar Steel India Ltd.* (First Appeal No. 3659 of 2021, decided on 24.02.2023); decision of Hon'ble Madras High Court in case of *M/s. Ruchi Soya Industries Ltd. v. Union of India and others* (WP No. 31090 of 2015 & MP No. 2 of 2015, decided on 26.04.2021); and *The Commissioner of Income Tax v. M/s. Hi Tech Arai Ltd.* (Tax Case (Appeal) No. 670 of 2009, decided on 01.09.2009); learned Income Tax Appellate Tribunal, Cuttack Bench in case of *Sophia Study Circle v. Income Tax Officer, Ward 2(1), Cuttack* (ITA No. 286/CTK/2012, dated 10.06.2013); and learned Income Tax Appellate Tribunal, 'A' Bench, Chennai in case of *Sri Matha Spinning Mills Pvt. Ltd. Vs. Deputy Commissioner of Income Tax, Company Circle, Tirupur* (ITA No. 1845/Mds/2011, dated 14.12.2012).

9. Heard the rival submissions of both parties, gone through the orders of the First Appellate Authority and Assessing Authority vis-a-vis the materials on record including the case laws cited by the parties.

The Dealer challenged the impugned order mainly on the ground that –

- (i) Assessment cannot be initiated during the period of moratorium;

- (ii) If the Dealer's liability shall be extinguished due to pending dispute as per the provision of I&B Code read with CIRP regulations; and
- (iii) Whether the Tribunal can adjudicate the present dispute especially when a similar dispute of the instant Dealer relating to the previous assessment period was already disposed of in favour of the Dealer and the same has already been confirmed by the Hon'ble Court.

Besides, the above three issues, neither party pressed any other issue as per grounds of appeal for adjudication by this Tribunal. So, this Tribunal confines only to the aforesaid issues.

10. As regards issue No. (i), if the assessment can be initiated during the period of moratorium. It is not in dispute that the assessment process was commenced on 06.12.2016 and the same was received by the Dealer on 19.12.2016. It is also not in dispute that the Hon'ble NCLAT declared the moratorium from 30.01.2017. It is also undisputed fact that the Dealer appeared before the Assessing Authority through its representative and participated in the assessment proceeding. It is also not in dispute that the assessment order was passed on 17.06.2017 and the State claims that the assessment order was issued on 22.06.2017. The Dealer does not dispute that the Dealer had not participated in the assessment proceeding during moratorium period. The Dealer, in fact, had not raised the maintainability question on such score before the Assessing Authority.

Section 14(1)(a) of the I&B Code prohibits institution of suits or continuation of pending suit or proceeding against the Corporate Debtor. The same is reproduced herein below for better appreciation of the case :-

“Moratorium

14(1).

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- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;”*

In the case of *Innoventive Industries Limited* cited supra, Hon'ble Apex Court were pleased to observe as follows :-

“The moment initiation of corporate insolvency resolution process taken place, a moratorium is announced by the Adjudicating Authority, vide Section 13 and 14 of the Code of 2016, by which institution of suits and continuation of pending suits etc. cannot be proceeded with and this situation would continue until the approval of a resolution plan under Section 31 of the Code of 2016.”

In the case of *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.* cited supra, the Hon'ble Apex Court have been pleased to observe as follows :-

“77. xx xx
In order to remedy the same mischief, the legislature thought it appropriate to clarify the position, that once such a resolution plan was approved by the Adjudicating authority, all such claims/dues, owed to the State/Central Government or any other local authority including tax authorities, which were not part of the Resolution Plan shall stand extinguished.”

In the case of *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs* cited supra, Hon'ble Apex Court have been pleased to observed as follows:-

“44. Therefore, this Court held that the authorities can only take steps to determine the tax, interest, fines or any penalty which is due. However, the authority cannot enforce a claim for recovery or levy of interest on the tax due during the period of moratorium. We are of the opinion that the above *ratio* squarely applies to the interplay between the IBC and the Customs Act in this context.

45. From the above discussion, we hold that the respondent could only initiate assessment or re-assessment of the duties and other levies. They cannot transgress such boundary and proceed to initiate recovery in violation of Sections 14 or 33(5) of the IBC. The interim resolution professional, resolution professional or the liquidator, as the case may be, has an obligation to ensure that assessment is legal and has been provided with sufficient power to question any assessment, if he finds the same to be excessive.”

In *ABG Shipyard v. Central Board of Indirect Taxes & Customs*, the Hon'ble Apex Court were pleased to hold that once a moratorium u/s. 14 or 33(5) of I&B Code has been imposed on CD, no recovery proceeding can be initiated under the I&B Code. However, the above decision also made

observations on the basis of the statutory literature that continuation of pending proceedings has not been curtailed u/s. 33(5) of I&B Code. The Dealer had also not raised in the assessment proceeding regarding maintainability of such proceeding during moratorium period.

10.1. In view of the ratio laid down by the Hon'ble Apex Court in *Sundaresh Bhatt's* case (supra), the State could only initiate assessment or reassessment of the duties and other levies, but cannot transgress such boundary and proceed to initiate recovery in violation of Section 14 of I&B Code. So, the submission of the learned Sr. Counsel for the Dealer cannot be accepted. Therefore, issue No. (i) is decided in favour of the State and against the Dealer.

11. As regards issue No. (ii) whether the Dealer's liability shall be extinguished due to pending dispute as per the provisions of I&B Code read with CIRP regulations.

It is an undisputed fact that CIRP (Corporate Insolvency Resolution Process) has already been initiated. It is also an undisputed fact that RP (Resolution Professional) has already submitted the information memorandum. It is also not in dispute that Resolution Plan had already been approved on 07.11.2017 and subsequently confirmed by the Hon'ble NCLAT in 2018. It is also not in dispute that the State had not specifically advanced its claim at any stage till approval of Resolution Plan by the Hon'ble NCLAT nor filed any appeal before the appellate forum. Further, it is not in dispute that this Tribunal has already decided such dispute between the parties in a similar proceeding for other assessment period. The same has already been affirmed by the Hon'ble Court. The State did not prefer to challenge the same.

Learned Standing Counsel (CT) for the State submits that the claim of the State is a contingent claim and the RP was aware of the same. So, he submits that the claim of the State shall not be extinguished. On the

contrary, learned Sr. Counsel for the Dealer advances argument that the State has not claimed before the RP and the process is mandatory in nature, so the State cannot object the same in the guise of contingent claim.

11.1. Now, we shall examine whether contingent claims are not required to be made before the RP.

The expression 'claim' as per Section 3(6) of I&B Code has two parts, i.e. (i) right to payment; and (ii) right to remedy for breach of contract, if such breach gives rise to a right to payment. Right to payment, irrespective of its nature, can be fixed, disputed, undisputed, legal, equitable, secured or unsecured. Other side is 'debt' as per Section 3(11) of the I&B Code. While 'claim' involves a right to payment, 'debt' involves 'liability' or an 'obligation' to make a payment, which is due.

In 'law relating to' I&B Code, the intent of Bankruptcy Law is that debts of all descriptions are provable. The intent of the definition of 'provable debt' is that the scheme of insolvency law is potential liability should be capable of being proved, so as to allow equitable opportunity to all creditors to claim their debt, even if the debt be 'contingent' upto the date of bankruptcy.

'Claim' includes 'contingent claim'. In United States, the term 'claim' u/s. 105 of the US Bankruptcy Code provides an extensive definition and uses contingent claim consistently in the US Code. In *Epstin v. Official Committee of Unsecured Creditors*, a striking balance was provided between the present and future claimants through the piper test. Under this test, all claims, i.e. present or contingent, standing in near relation to a company, are assigned best estimated value, so as to safeguard the position of future claimants thereby providing a suitable Resolution Plan considering the interest of all the creditors and all legal obligations of the debtor, no matter how remote or contingent, will be able to deal with in the bankruptcy case.

11.2. In the instant case, it is not in dispute that there was a public announcement. It is also not in dispute that the respondent has not made any specific claim before the IRP. The State claims that its claim is a contingent claim and the RP (Resolution Professional) is aware of the same as the representative of the Dealer participated in assessment proceeding after appointment of RP.

Rule 12 of the Regulation provides the procedure of submission of proof of claims. The same is reproduced herein below for better appreciation:-

“Submission of proof of claims -

12(1) Subject to sub-regulation (2), a creditor shall submit [claim with proof] on or before the last date mentioned in the public announcement.

[(2) A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date.]

(3) Where the creditor in sub-regulation (2) is [a financial creditor under regulation 8], it shall be included in the committee from the date of admission of such claim;

Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.”

Dealer relies on the decision in case of ***Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*** cited supra, wherein the Hon’ble Apex Court have been pleased to observe as follows :-

“77.

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In order to remedy the same mischief, the legislature thought it appropriate to clarify the position, that once such a resolution plan was approved by the Adjudicating Authority, all such claims/dues, owed to the State/Central Government or any local authority including tax authorities, which were not part of the resolution plan shall stand extinguished.”

Both the Dealer and State rely on the decision in case of ***State Tax Officer (1) v. Rainbow Papers Limited (Civil Appeal Nos. 1661 & 2568 of 2020***, decided on 06.09.2022), wherein the Hon’ble Apex Court have been pleased to observe in Paras- 24 & 25 as follows :-

“24. In this case, claims were invited well before the 5th October, 2017 which was the last date for submission of claims. Under the unamended

provisions of Regulation 12(1), the Appellant was not required to file any claim. Read with Regulation 10, the appellant would only be required to substantiate the claim by production of such materials as might be called for. The time stipulations are not mandatory as is obvious from Sub-Regulation (2) of Regulation 14 which enables the Interim Resolution Professional or the Resolution Professional, as the case may be, to revise the amounts of claims admitted, including the estimates of claims made under Sub-Regulation (1) of the said Regulation as soon as might be practicable, when he came across additional information warranting such revision.

25. In this case, at the cost of repetition, it may be noted that there was no obligation on the part of the State to lodge a claim in respect of dues which are statutory dues for which recovery proceedings have also been initiated. The appellants were never called upon to produce materials in connection with the claim raised by the Appellants towards statutory dues. The Adjudicating Authority as well as the Appellate Authority/NCLAT misconstrued the Regulations.”

11.3. A bare reading of the provision of Regulation 12 reveals that the same was amended w.e.f. 03.07.2018. In the instant case, the Resolution Plan was approved on 07.11.2017 and subsequently, the same was confirmed by the Hon’ble NCLAT in 2018.

As a matter of fact, this is a case relating to pre-amendment and in view of decision of the Hon’ble Apex Court in case of *State Tax Officer (1)* cited supra that there is no obligation on the part of the State to lodge a claim in respect of dues. The State was never called upon to produce the material in connection with the claim especially when the Dealer appeared through its representative in the assessment proceeding after appointment of the RP. The assessment order reveals that the Dealer has also not raised the point of maintainability of the assessment proceeding during moratorium period. It is submitted on behalf of the Dealer that the assessment orders were passed on 17.06.2017 and the same were served on the Dealer in March, 2019 by the which time the Corporate Insolvency Process was already over.

The impugned order of the First Appellate Authority reveals that the dispute was pending before the Hon’ble NCLAT. The order of the Hon’ble NCLAT passed on dated 18.12.2018 reveals that the Resolution Plan has already been approved. In view of Regulation 12(2), the State could

have raised the same before the Hon'ble NCLAT. The State slept over the matter till approval by the Hon'ble NCLAT.

In *Parashuram Pottery Works Co. Ltd. v. ITO*, reported in (1977) 106 ITR 1, it is observed as follows :-

“At the same time, we have to bear in mind that the policy of law is that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi judicial controversies as it must in other spheres of human activity.”

After approval of the Resolution Plan by the Hon'ble NCLAT, the claim of the State cannot be accepted by this Tribunal and this Tribunal cannot pass any direction for continuation of the assessment process.

In view of the decision *Ghanashyam Mishra's* case cited supra, the statutory dues of the State shall be extinguished after acceptance of the Resolution Plan by the Hon'ble NCLAT. So, the submissions of the learned Counsel for the State merit no consideration. Accordingly, the issue No. (ii) is decided against the State and in favour of the Dealer.

12. As regards issue No. (iii), this Tribunal has already decided the same issue for another assessment period of the instant Dealer and the same was confirmed by the Hon'ble Court. The State has not challenged the same. In the case of *Radhasoami Satsang v. CIT*, reported in 193 ITR 321, wherein Hon'ble Apex Court were pleased to observe as follows :-

“We are of the fact that strictly, speaking, res judicata does not apply to income tax proceeding. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where and fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.”

So, in view of the ratio decided by the Hon'ble Apex Court in the decision cited above, such finding of this Tribunal rendered in case of the instant Dealer for the other assessment period reached its finality and for

that reason, it is not appropriate at all to allow the position to be changed in the present proceeding.

So, at this stage, this Tribunal cannot travel beyond the decision taken earlier by this forum. Moreover, the I&B Code is a special statute, which has got an overriding effect over other Acts as per Section 238 of the I&B Code. Therefore, issue No. (iii) is also decided in favour of the Dealer and against the State.

13. As issue Nos. (ii) & (iii) are decided in favour of the Dealer and against the State and the claim of the State is extinguished after approval of the Resolution Plan by the Hon'ble NCLAT, so further detail discussion on all the citations of both sides are redundant.

14. So, for the foregoing discussions, we come to an irresistible conclusion that the claim of tax dues the State is extinguished after approval of Resolution Plan by the Hon'ble Hon'ble NCLAT. So, the order of the First Appellate Authority suffers from infirmity and needs interference in appeal. Hence, it is ordered.

15. Resultantly, the appeals under both the Acts stand allowed and the orders of the First Appellate Authority and the Assessing Authority are hereby set aside. Cross-objections are disposed of accordingly.

Dictated & Corrected by me

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

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

I agree,

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

I agree,

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