BEFORE THE DIVISION BENCH-I, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A. No. 1 (C) of 2026

(Arising out of order of the learned JCST (Appeal), Jajpur Range, Jajpur Road, in Appeal No. AA- 1162 JAJ (C)/2025-26, disposed of on 20.11.2025)

Present: **Shri G. Sharma, Chairman**
A N D
Shri S.S. Roy, Accounts Member

M/s. Jindal Stainless Ltd.,
Kalinga Nagar, Industrial Complex,
Danagadi, Jajpur ... Appellant

-Versus-

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

For the Appellant : Sri B. Mohanti, Sr. Advocate &
Sri S.S. Swain, Advocate
For the Respondent : Sri N.K. Rout, Addl. S.C. (CT)

Date of hearing: 21.09.2026 *** Date of order : 07.10.2026

O R D E R

Challenging the legality and propriety of order dated 20.11.2025 passed by the Joint Commissioner of Sales Tax (Appeal), Jajpur Range, Jajpur Road (hereinafter referred to as 'First Appellate Authority') in Appeal No. AA- 1162 JAJ (C)/2025-26, this appeal has been filed by M/s. Jindal Stainless Ltd. (hereinafter referred to as 'Dealer').

2. The factual matrix relevant for disposal of this appeal run thus-

The Dealer being a Limited Company carries on business in manufacturing and sale of stainless steel, high carbon ferro chrome ore and chrome concentrates, coke and other allied products in course of intra-State, inter-State as well as export. The Dealer also effects purchase both from within and outside the State as well as imports coke and coal from outside India. The Dealer was originally assessed u/r. 12(3) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') r/w. Rule 49A(2) of the OVAT (Amendment) Rules, 2016 for the period 01.04.2016 to 30.06.2017 vide order dated 15.03.2019 wherein a demand of tax and interest for ₹1,64,16,410.00 was raised for non-submission of declarations in Form- I, Form –F and Form- C. Challenging the order of assessment, the Dealer preferred first appeal bearing No. 107101910000097/2019-20 before the Addl. Commissioner of Sales Tax (Appeal), Odisha, who in turn, remanded back the matter for fresh assessment vide order dated 12.08.2022. Pursuant to such remand, the Sales Tax Officer, CT & GST Circle, Jajpur, Jajpur Road (for brevity, 'Assessing Authority') initiated the reassessment proceeding and issued notice. In response to the notice, the Dealer appeared and produced the books of account along with other records. In the reassessment proceeding, the Dealer had taken a stand that there is full and final settlement of dues against the corporate debtor- M/s. Cosmic Ferro Alloys Ltd., a purchasing dealer, by the order dated 11.10.2018 of the Hon'ble NCLT as well as order dated 10.02.2020 of the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 1042 of 2019 and pleaded for reconsideration of the same in determination of the balance tax liability besides filed 20 nos. of declarations in Form-C and one Form-I in original for acceptance. On examination, the Assessing Authority found the declaration forms to be in order and allowed the claim thereof, but disallowed the claim of inter-State sales at

concessional rate u/s. 8(1) of the CST Act due to non-availability of the requisite statutory declarations in Form-C for an amount of ₹18,72,53,891.00 and subjected the transactions to be taxed at the appropriate rate under the CST Act, accordingly, held the Dealer liable to pay additional tax of ₹83,58,202.00 and interest of ₹22,75,209.00, in toto ₹1,06,33,411.00, for the period under reassessment as per order dated 29.03.2025. Being aggrieved with the order of reassessment, the Dealer preferred first appeal before the learned First Appellate Authority. The First Appellate Authority rejected the contention of the Dealer regarding waiver of sales tax dues for non-submission of declarations in Form-C and confirmed the order of assessment holding that as the selling dealer was itself a stakeholder of the corporate debtor, the provision of Section 31(1) of the IBC could not be interpreted to curtail or override the statutory powers and duties of the Assessing Authority under the relevant taxation laws and that the Dealer should have claimed its due before the Hon'ble NCLT, Kolkata, hence this appeal.

3. In course of argument, the learned Sr. Counsel, Sri Mohanti, appearing for the Dealer filed a memo and pressed for the issue confining exclusively to the transactions effected with M/s. Cosmic Ferro Alloys Ltd. concerning the demand of differential CST @ 3% on account of non-submission of declarations in Form-C and did not press any other grounds raised in the memo of appeal relating to remaining transactions and turnover. The Dealer also undertook to pay the tax and applicable interest determined in respect of the remaining turnover, other than the turnover relating to the transactions with M/s. Cosmic Ferro Alloys Ltd. *Inter alia*, he submitted that during the period under assessment, the Dealer effected inter-State sales of stainless steel products to M/s. Cosmic Ferro Alloys Ltd. pursuant to purchase orders,

as such, the transactions occasioned movement of goods from the State of Odisha to factory of M/s. Cosmic Ferro Alloys Ltd., which fell u/s. 3(a) of the CST Act. He contended that M/s. Cosmic Ferro Alloys Ltd. was at the relevant time a registered dealer under the CST Act and was entitled to purchase the goods in question against 'C' forms, for which the invoices were raised applying CST at the concessional rate of 2%. He averred that basing on an application u/s. 7 of the Insolvency & Bankruptcy Code, 2016 (for brevity, 'IBC'), proceedings were admitted against M/s. Cosmic Ferro Alloys Ltd. and the Corporate Insolvency Resolution Process commenced on 16.01.2018 and upon commencement of CIRP, the management and affairs of M/s. Cosmic Ferro Alloys Ltd. came under the statutory regime contemplated under the IBC. He further submitted that the Hon'ble NCLT, Kolkata Bench, in CP (IB) No. 596/KB/2017, considering the Resolution Plan recorded that the plan satisfied the requirements of Section 30(2) of the IBC, accordingly, vide order dated 11.10.2018, approved the Resolution Plan submitted by Consortium of United Tradeco FZC and QVC Exports Pvt. Ltd., which had been approved by the Committee of Creditors with 95.86% voting share. Further, in the said order, the Hon'ble NCLT expressly declared that the approved Resolution Plan would be binding upon the Corporate Debtor, its employees, members, creditors and other stakeholders involved in the Resolution Plan and directed for revival of the company in accordance with the approved Resolution Plan would come into force immediately. In other words, once the Resolution Plan expressly provided for waiver/final settlement of M/s. Cosmic Ferro Alloys Ltd. statutory liabilities including 'Sales Tax/VAT/GST', and the said plan was approved by the Hon'ble NCLT u/s. 31(1) of the IBC and became binding upon M/s. Cosmic Ferro Alloys Ltd. and the concerned stakeholders, as thus, the corresponding pre-resolution CST liability

arising therefrom, whether quantified @ 2% or @5%, stood extinguished and/or finally settled in accordance with the binding Resolution Plan. He alternatively submitted that once the underlying pre-resolution sales tax liability itself stood extinguished/finally settled, neither CST at the concessional rate of 2% nor CST @ 5% could thereafter survive as a recovervable liability arising from those transactions. He argued that due to such insolvency proceedings and the approved Resolution Plan, the Dealer was unable to recover the CST component and to procure the declarations in Form-C from M/s. Cosmic Ferro Alloys Ltd., besides the Dealer could not compel the reconstituted Corporate Debtor to discharge a pre-resolution obligation. It is also urged that the Dealer duly pursued its claim before the Resolution Professional and also approached the Hon'ble NCLT and thereafter the Hon'ble NCLAT seeking for appropriate relief, but neither the CST component nor the requisite 'C' form could be secured. He stated that the Dealer had already deposited CST @2% from its own resources without recovering the same from M/s. Cosmic Ferro Alloys Ltd. and now the Revenue seeks additional CST @ 3% together with interest solely because the 'C' forms could not be obtained and submitted, which is illegal and arbitrary. Buttressing the arguments, learned Sr. Counsel for the Dealer relied on the decisions of the Hon'ble Apex Court in the cases of ***Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Others***, **(2020) 8 SCC 531**; ***Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Company Ltd.***, **(2021) 9 SCC 657; *J.K. Synthetics Ltd. v. Commercial Taxes Officer,* (1994) 4 SCC 276**; and ***Frick India Ltd. v. State of Haryana***, **(1994) 5 SCC 559**; Hon'ble Orissa High Court in the case of ***M/s. Jagat Janani Services v. Goods & Service Tax Council & Others***, **W P (C) No. 17196 of 2020**, decided on 21.09.2021; Hon'ble Gauhati high Court in the case of ***Bharat Trading Corporation v. State***

of Assam & Others, **[2026] 157 GSTR 257 (Gauhati)**; and Hon'ble Calcutta High Court in the case of ***M/s. N.P. Trading Company v. Deputy Secretary, Government of West Bengal & Others*** (**WPTT/3/2025**, decided on 25.02.2025), and prayed that the orders of the fora below demanding the differential CST @ 3% together with interest being unlawful are liable to be set aside in the interest of justice.

4. Per contra, learned Addl. Standing Counsel (CT) appearing on behalf of the State supported the orders of the authorities below to be just and proper. He submitted that furnishing of the prescribed declaration in Form-C is a statutory requirement for availing the concessional rate and in absence of the requisite statutory declaration within the prescribed manner and time, the Assessing Authority is justified in determining the tax liability in accordance with law. He argued that the Dealer having claimed such concessional benefit is required to establish the entitlement in accordance with the statutory provisions, as such, the burden of establishing entitlement to the concessional rate cannot be shifted upon the State merely because the purchasing dealer subsequently become insolvent. He pleaded that the Dealer's reliance on the alleged settlement of its operational claim of approximately ₹22.66 crore for ₹1.00 crore under the Resolution Plan is wholly irrelevant for determining the Dealer's liability under the CST Act and thus, the settlement of a commercial/operational claim in the insolvency proceedings does not, in the absence of a specific legal provision or direction, determine or extinguish the statutory tax liability of the Dealer arising under a separate taxing enactment. Alternatively, he urged that the contention of the Dealer that the demand amounts to indirect enforcement of an extinguished liability of the purchasing dealer is misconceived since the impugned demand has been raised against the Dealer on account of its own statutory liability as the selling dealer and not against M/s. Cosmic

Ferro Alloys Ltd. as the corporate debtor, therefore, the principles governing extinguishment of claims against the corporate debtor have no application to the independent liability determined against the Dealer. Further, the argument of the Revenue is that Section 31(1) of the IBC makes an approved Resolution Plan binding upon the persons and stakeholders contemplated therein and the Dealer has failed to demonstrate how the Resolution Plan approved in respect of M/s. Cosmic Ferro Alloys Ltd. expressly or by necessary implication extinguished the Dealer's independent statutory liability to pay CST under the CST Act, as such, in absence of such a finding or specific provision in the Resolution Plan, the Dealer cannot seek to enlarge the scope of Section 31 so as to defeat the statutory provisions governing its own tax liability. Accordingly, learned Addl. Standing Counsel (CT) for the State argued that the orders passed by the authorities below being based upon the statutory provisions and the materials on record, require no interference in appeal and liable to be upheld.

5. Having regard to the rival submissions of both parties *vis-a-vis* the orders of the fora below, it is incumbent upon the Tribunal to address the following issue :-

> "**Whether in the facts and circumstances of the case, the orders passed by the authorities below rejecting the claim of CST sales at concessional rate and raising the impugned demand for non-submission of declarations in Form 'C' by the Dealer on the ground that the purchasing dealer- M/s. Cosmic Ferro Alloys Ltd. became insolvent and the Resolution Plan was duly approved as per Section 31(1) of the IBC, are lawful?"**

Admittedly, in the present case, the Dealer claimed to have effected sales at concessional rate against declarations in Form-C to M/s. Cosmic Ferro Alloys Ltd. for an amount of ₹18,72,53,891.00 during the period from 01.04.2016 to 31.03.2017, but unable to submit the same on the ground that the purchasing dealer filed petition as financial creditor before the Hon'ble NCLT, Kolkata Bench in the year 2017, which was

admitted on 16.01.2018, u/s. 7 of the IBC, and as per order dated 11.10.2018 the Resolution Plan got approved by the Adjudicating Authority u/s. 31(1) of the IBC, which would be binding on the Corporate Debtor, its employees, members, creditors, coordinators and other stakeholders involved in the Resolution Plan, accordingly sought for waiver of turnover relating to transactions with M/s. Cosmic Ferro Alloys Ltd. It transpires from the orders of the fora below that the contention of the Dealer regarding waiver of CST dues for non-submission of declarations in Form-C was rejected on the ground that the selling dealer (instant Dealer) itself is a stakeholder of the corporate debtor, so the said provision cannot be interpreted to curtain or override the statutory powers and duties of the Assessing Authority under the relevant taxation laws and also the Dealer should have claimed his dues before the NCLT, Kolkata, which is assailed by the Dealer to be unlawful.

Before delving into the merit of the case, this forum feels it proper to examine the relevant factual aspect involved in the present case. It is not in dispute that for the period under assessment the Dealer supplied goods to M/s. Cosmic Ferro Alloys Ltd. in course of inter-State trade and commerce falling within the ambit of Section 3(a) of the CST Act at a concessional rate of tax against Form-C to be issued by the purchasing dealer. As it appears, for non-submission of statutory forms, the Assessing Authority held the Dealer liable to pay tax along with interest in audit assessment u/r. 12(3) of the CST (O) Rules for the material period. The Dealer urged before the First Appellate Authority that against the purchasing dealer- M/s. Cosmic Ferro Alloys Ltd. the financial creditor - M/s. City Bank NA instituted Corporate Insolvency Resolution (CIRP) arraigning the purchasing dealer as Corporate Debtor u/s. 7 of the IBC r/w. Rule 4 of the IB Rules, wherein the Hon’ble NCLT

vide order dated 11.10.2018 approved the Resolution Plan of M/s. Consortium of United Tradeco FZC and QVC Exports Pvt. Ltd. as submitted by the CoC u/s. 31(1) of the IBC, which would be binding on the Corporate Debtor, its employees, members, creditors, coordinators and other stakeholders involved in the Resolution Plan (Annexure-A/6 of the Paper Book filed). In the said proceeding, the Dealer raised the claim to the tune of ₹3,18,82,894.00 as per list of creditors of M/s. Cosmic Ferro Alloys Ltd. as on 13.08.2018 at Sl. No. 4 of the said list (Annexure-A/5 of the Paper Book), where the verified amount was ₹2,66,98,711.00. Being dissatisfied, the Dealer carried the matter before the Hon'ble NCLAT, New Delhi in Company Appeal (AT) (Insolvency No. 1042 of 2019, wherein vide order dated 10.02.2020 the Hon'ble NCLAT declined to interfere with the order dated 11.10.2018 passed by the Hon'ble NCLT with the following observations :-

> "5.... It is argued that the Appellant had moved the Respondent No.-1 after new management took over, but they have replied vide Annexure A11 page 232 as under :-
>
> "Sir,
>
> Further to our earlier communication, pl note that as per NCLT order dated 11th October, 2018 the company has been waived from all sales tax/VAT liability, which is evident from page 33 [*Ref: Operational Creditors-Statutory Dues*] and page 44 under the paragraph"
>
> Liabilities accrued/due under statutory dues" as mentioned in the enclosed Resolution Plan, duly approved by NCLT.
>
> You should take a stance with the sales tax authorities in view of above order of NCLT and take the benefit of 'C' Form. We would request you to furnish the attach docs to the sales tax department to claim the benefit of waiver of liability which may accrued to you for non-submission of 'C' Form."

In the said order, the Hon'ble NCLAT also observed that -

> "8.... We cannot enter into aspects of Commercial Wisdom of CoC. We cannot go into such fresh calculations to give directions as are sought. The Resolution Professional has, in reply ("Diary No. 16131") in paragraph No. 17, stated as follows,
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> "17. Without prejudice to the above submissions, it is pertinent to note that against an admitted claim of ₹2,66,98,711/- (which includes their claim based on Form C as well), the Appellant had admittedly recovered an

> amount of ₹1,00,00,000/- under the Resolution Plan in full and final settlement of their dues.
>
> The relevant clause is extracted hereunder :
>
> "Liabilities claimed under Operational Creditor- Waiver approval by NCLT for all other liabilities claimed by the Operational/Other Creditors as on the Date of Approval of the Resolution Plan by NCLT to be treated as *Fully and Finally settled with value as stated in the Resolution Plan and no Due remains to be paid over ever after the waiver*."
>
> In view of the above, the present appeal may kindly be dismissed."
>
> 9. The learned Counsel for the Appellant is trying to raise the dispute that the figure of ₹2,66,98,711/- did not include the dues towards C Form. However, we will not go into these aspects. The fact remains that dues were claimed on the basis of C Form and the Resolution Professional admitted claim to a certain extent which was clearly more than what was calculated as principal and interest. Matter had gone before the CoC and Resolution Plan has been approved in which now exception is sought only to the extent that new management can issue C Form."

Despite the specific observations of the Hon'ble NCLT and Hon'ble NCLAT passed under IBC, which have overriding binding effect to all proceedings as per settled law, wherein the purchasing dealer having been declared insolvent as per order dated 16.01.2018 passed by the Hon'ble NCLT, Kolkata Bench in CP (IB) No. 596/KB/2017 under the provisions of IBC, who became incapable for issuing statutory Form-C, but the fora below without considering the contingencies arose for non-submission of 'C' forms passed the order raising the impugned demand of tax along with interest for the period under assessment, which is bad in law.

Having regard to the above backdrop of the matter *vis-a-vis* the observations of the Hon'ble NCLT and Hon'ble NCLAT, this forum is of the humble opinion that both the authorities below have not considered the submissions of the Dealer in its proper prospective before raising the impugned demand for the period under assessment on the sole ground of non-submission of declarations in Form-C, hence, we feel it appropriate to set aside the impugned order and remand the matter to the

Assessing Authority for assessment afresh keeping in view the orders of the Hon'ble NCLT and Hon'ble NCLAT.

6. In the result, the appeal filed by the Dealer stands allowed and the impugned orders of First Appellate Authority confirming the assessment order is hereby set aside. The matter is remanded back to the Assessing Authority for assessment afresh as per law keeping in view the observations made supra within a period of four months from the date of receipt of this order.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman

I agree,

Sd/-
(S.S. Roy)
Accounts Member