BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A. No. 95(ET) of 2012-13

(Arising out of order of the learned Addl. Commissioner of Sales Tax (Appeal), Central Zone, Odisha, Cuttack in Appeal No. Jajpur-AA/136/2007-08, disposed of on 22.08.2012)

Present: **Shri G. Sharma, Chairman**

M/s. Shree Ganesh Sponge Iron (P) Ltd.,
At- Kutugaon, P.O. Chipinda,
Dist. Kendujhar ... Appellant

-Versus-

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

For the Appellant : Mr. S. Nayak, A.R.
For the Respondent : Mr. A. Das, Addl. S.C. (CT)

Date of hearing: 03.09.2026 *** Date of order : 01.10.2026

ORDER

Challenging the legality and propriety of order dated 22.08.2012 passed by the learned Addl. Commissioner of Sales Tax (Appeal) Central Zone, Odisha, Cuttack (hereinafter referred to as 'First Appellate Authority') in Appeal No. Jajpur-AA/136/2007-08, this second appeal has been filed by M/s. Shree Ganesh Sponge Iron (P) Ltd. (hereinafter referred to as 'Dealer')

2. The brief facts relevant for disposal of this appeal run thus-

The Dealer, in the instant case, engaged in manufacture and sale of sponge iron and also sells coal fines/waste being a byproduct of coal. Basing upon an Audit Visit Report (AVR), the Asst.

Commissioner of Sales Tax, Jajpur Range, Jajpur Road (in short, 'Assessing Authority') completed the assessment u/s. 9C of the Odisha Entry Tax Act, 1999 (in short, 'OET Act') against the Dealer for the period 01.04.2006 to 31.03.2007 (OET) and determined the GTO at ₹17,81,35,572/- and TTO at ₹4,38,48,663/- after allowing deduction on ET paid goods and taxed the same at the appropriate rates, thereby, raised a tax demand ₹3,08,498/- including penalty for the period under assessment. Being aggrieved with the order of assessment, the Dealer preferred appeal before the First Appellate Authority. The First Appellate Authority considering the suppression to be established and addition of 5% towards freight charges by the Assessing Authority as justified, reduced the assessment to ₹1,53,318 including penalty, hence this appeal.

3. Learned Authorised Representative appearing for the Dealer drawn the attention of the Tribunal the order dated 01.11.2021 of the Hon'ble NCLT, Cuttack Bench passed in **I.A. No. 94/CB/2021** in **TP No.26/CTB/2019** in the case of ***Sagu India Holding Limited v. Sri Ganesh Sponge Iron Pvt. Ltd*** and submitted that the demands raised under the OET Act for the period under dispute by the Assessing Authority are liable to be quashed in view of the Hon'ble NCLT's order approving the Resolution Plan (RP) under CIRP stand extinguished by virtue of the overriding effect of the provisions of IBC. *Inter alia*, it is submitted that there is nothing on record that the State has raised any claim before the Adjudicating Authority and since the Resolution Plan has been approved by the Committee of Creditors (CoC), the State is precluded from raising any demand as required under law, accordingly, prayed to quash the demand in the ends of justice. Supporting the contention, he relied on the decisions of the Hon'ble Apex Court in the case of ***Ghanashyam Mishra and Sons***

Private Limited v. Edelweiss Asset Reconstruction Company Limited & others, **(2021) 9 SCC 657;** ***Committee of Creditors of Essar Steel India Limited. v. Satish Kumar Gupta & Others (2020)*** **8 SCC 531** and ***M/s. Tata Steel Ltd. v. Varsha & Another*** **(Civil Appeal Nos.9052-9053 of 2026)**

4. Per contra, learned Addl. Standing Counsel (CT) appearing for the State submitted that the Dealer is liable to pay the tax for the period under assessment since the claim is contingent claim.

5. Having regard to the submissions made on behalf of the parties and considering the nature of the dispute involved in this appeal, this Tribunal formulates the following substantial question of law :-

> **"Whether the liability to pay tax by the Dealer as per the orders of the Assessing Authority and First Appellate Authority is extinguished after approval of the Resolution Plan by the adjudicating authority in absence of any claim made by the State to that effect?"**

To answer this question, it is felt apposite to refer the relevant portion of the judgment at Para-95 in the case of ***Ghanashyam Mishra*** cited supra, wherein the Hon'ble Apex Court have been pleased to observed 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."

Hon'ble Apex Court in the above mentioned case have been pleased to observe that all such claims, which are not part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceeding in respect to a claim, which is not part of the Resolution Plan.

6. In view of dictum of the Hon'ble Apex Court mentioned supra, the State could have advanced its claim for recovery of the tax dues, but the State failed to produce any material to the effect that claim was advanced before the Resolution Authority. Unless the State advances its claim of tax dues before the Resolution Professional during Resolution Plan, the dues of the State shall stand extinguished and the order of the NCLT dated 01.11.2021 is binding on the State Government and as such, the State cannot recover any tax dues from the Debtor.

7. In view of the binding effect of the order of the NCLT, Cuttack Bench, approving the insolvency Resolution Plan against the instant Dealer under the I&B Code, the appeal of the Dealer is disposed of as infructuous.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman