



W.P.No.27692 of 2023
and W.M.P.Nos.27168 & 27170 of 2023

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KRISHNAN RAMASAMY, J.

The present Writ Petition has been filed seeking to quash the impugned orders issued by the respondent in ITBA/AST/F/148A/2021-22/1042257427 (1) dated 31.03.2022 and ITBA/AST/S/147/2022-23/1051776721 (1) dated 31.03.2023.

2.The case of the petitioner is that, in the present case, the resolution plan was approved for the petitioner as early as on 13.12.2019. After the approval of the resolution plan, show cause notice was issued for re-opening the assessment for the year 2018-2019 on 31.03.2022. He would further submit that once the resolution plan was approved, no claim can be made to any one except to the person whose name is reflected in the resolution plan. In this regard, he referred the judgment of the Hon'ble Supreme Court in the case of ***Ruchi Soya Industries Ltd., and others vs. Union of India and others*** reported in ***(2022) 6 SCC 343***. The relevant portion of the judgment is extracted hereunder:

“10.We find that the present appeals are squarely covered by the law laid down by this Court in



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Ghanashyam Mishra & Sons (P) Ltd. It will be relevant to refer to para 102 of the said judgment which reads as under: (SCC p. 716)

"102. In the result, we answer the questions framed by us as under:

102.1. 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.

102.2. The 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 the I&B Code has come into effect.

102.3. 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



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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."

11. Admittedly, the claim in respect of the demand which is the subject-matter of the present proceedings was not lodged by Respondent 2 after public announcements were issued under Sections 13 and 15 IBC. As such, on the date on which the resolution plan was approved by the learned NCLT, all claims stood frozen, and no claim, which is not a part of the resolution plan, would survive.

12. In that view of the matter, the appeals deserve to be allowed only on this ground. It is held that the claim of the respondent, which is not part of the resolution plan, does not survive. The amount deposited by the appellant at the time of admission of the appeals along with interest accrued thereon is directed to be refunded to the appellant."

By referring the above judgment, the learned counsel for the petitioner prayed to stay the impugned order till the disposal of the present writ petition.



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3.The learned Senior Standing Counsel for the respondent seeks time to file counter.

4.This Court is of the view that the petitioner has made out *prima facie* case and the balance of convenience is in favour of the petitioner.

5.Hence, there shall be an order of interim stay.

List the case on 31.10.2023.

03.10.2023

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