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T.C.A.Nos.187, 188 and 189 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,  
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

T.C.A.Nos.187, 188 and 189 of 2025  
and C.M.P.Nos.23608, 23615 and 23644 of 2025

Empee Distilleries Limited  
Rep. by its Authorised Signatory  
Alfred Sagaya Sunder Xavier  
No.72, Greams Road, Thousand Lights,  
Anna Salai, Chennai - 600 006

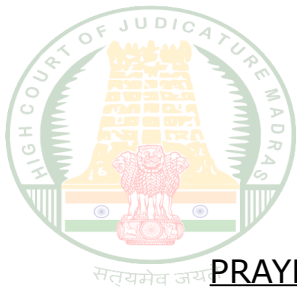
Appellant  
in all appeals

Vs

The Assistant Commissioner of Income Tax  
Company Range II, Chennai  
presently Corporate Circle 2(1),  
Chennai 600 034

Respondent  
in all appeals

PRAYER in TCA No.187 of 2025: Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "B" Bench, Chennai, dated 16.06.2025 in M.A.No.13/Chny/2023 in I.T.A.No.2334/Chny/2017.



T.C.A.Nos.187, 188 and 189 of 2025

PRAYER in TCA No.188 of 2025: Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "B" Bench, Chennai, dated 16.06.2025 in M.A.No.14/Chny/2023 in I.T.A.No.2335/Chny/2017.

PRAYER in TCA No.189 of 2025: Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "B" Bench, Chennai, dated 16.06.2025 in M.A.No.15/Chny/2023 in I.T.A.No.2336/Chny/2017.

For Appellant: Mr.Karthik Lakshmanan  
Arunachalam

For Respondent: Mr.T.Ravi Kumar  
Senior Standing Counsel

COMMON JUDGMENT

(Order of the Court was made by the Hon'ble Chief Justice)

Heard.

2. These appeals were admitted on the following substantial questions of law:

*(1) Whether the Tribunal was conferred with jurisdiction to decide the appeal filed by the erstwhile management on 16.9.2017 (prior to CIRP) upon approval of Resolution Plan by the Adjudicating Authority (AA) i.e., National Company Law Tribunal*



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*(NCLT) on 20.01.2020 in the case of the appellant company?*

*(2) Whether the order impugned in the appeal before the Tribunal i.e., the order of the CIT(A) dated 28.07.2017 and the original assessment order dated 31.12.2010 passed by the Assessing Officer (AO) which was subject matter of challenge in the appeal pending before the CIT (A) would survive upon a Resolution Plan being approved by the AA on 20.01.2020?*

*(3) Whether the jurisdiction and powers conferred on the Tribunal ceases upon approval of a Resolution Plan by the AA against one of the parties?*

*(4) Whether pending proceedings and/or demands subject matter of such pending proceedings before the Tribunal relating to the period prior to the approval of the Resolution Plan by the AA not being part of the Resolution Plan approved by the AA would survive or would stand extinguished upon approval of the Resolution Plan by the AA?*

*(5) Whether the Tribunal was justified in law in refusing to exercise its jurisdiction under Section*



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*254(2) of the Income Tax Act, 1961 even though preparation of the Resolution Plan under Insolvency and Bankruptcy Code (IBC) was brought to its notice?*

3. On the date when the appeals were admitted by this Court, it was brought to the notice of this Court that, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case of *Ghanashyam Mishra and Sons Private Limited, through the Authorised Signatory v. Edelweiss Asset Reconstruction Company Limited, through the Director and others*<sup>1</sup>, upon approval of the resolution plan, the claim, if any, of recovery of any tax from the appellant stands extinguished and this aspect was not taken into consideration by the Tribunal even when application seeking rectification was filed, which eventually came to be dismissed on 16.6.2025.

4. The decision of the Hon'ble Supreme Court in the case of *Ghanashyam Mishra* (supra) concludes the issue arising for consideration on the questions posed before us. It is felicitous to reproduce the following observations:

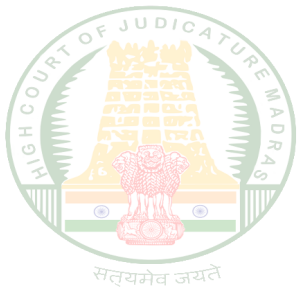
*"102.1. That once a resolution plan is duly approved by*

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*'(2021) 9 SCC 657*

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*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.*

...

*102.3. 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 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."*

5. It is, thus, apparently clear that once the resolution plan is approved, the claim, unless saved under the resolution plan, comes to an end and ceases to be enforceable.

6. In order to find out whether the Revenue had submitted any



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application in the resolution proceedings before the National Company Law Tribunal (NCLT), learned counsel for the Revenue was granted time. All that learned counsel for the Revenue has to say before this Court is that, though application was submitted before NCLT, the claim was neither accepted, nor rejected.

7. It was again enquired whether against the order passed by the NCLT any appeal was preferred before the National Company Law Appellate Tribunal (NCLAT) or any other Court. On this aspect, learned counsel for the Revenue submits that no further proceedings were taken.

8. It is, thus, clear that the resolution plan, as approved by the NCLT, has attained finality. Accordingly, in view of the decision of the Hon'ble Supreme Court in the case of *Ghanashyam Mishra* (supra), all the claims towards the tax liability also stand extinguished as against the assessee arising from the assessment orders passed by the Assessing Officer and confirmed by the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal pertaining to the Assessment Years 2008-2009; 2009-2010 and 2010-2011.

9. Therefore, the questions of law framed by us are decided in



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favour of the assessee and against the revenue. It is held that it will not be open for the revenue to institute any recovery proceedings against the appellant in view of approval of the resolution plan by the NCLT.

10. The appeals are, accordingly, allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)  
26.11.2025

Index : Yes/No  
Neutral Citation : Yes/No  
bbr

To:

1. The Assistant Registrar  
Income Tax Appellate Tribunal  
Chennai Benches, Chennai.
2. The Commissioner of Income Tax (Appeals)-9  
Chennai.
3. The Assistant Commissioner of Income Tax,  
Company Range II, Chennai  
presently Corporate Circle 2(1),  
Chennai-600 034.



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THE HON'BLE CHIEF JUSTICE  
AND  
G.ARUL MURUGAN,J.

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