

**225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.4170 of 2018
Decided on : 25.02.2019

State Bank of India

..... Petitioner

Versus

Principal Commissioner of Income Tax and ors.

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Sanjay Bansal, Sr. Advocate with
Mr. Amit Parsad, Advocate
for the petitioner.

Mr. Yogesh Putney, Sr. Standing Counsel
for respondent.

Ajay Kumar Mittal, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari/Mandamus for quashing the notice dated 16.02.2017 (Annexure P-5) issued under Section 226(3) of the Income Tax Act, 1961 by respondent No.2.

2. The primary dispute in the writ petition was regarding whether the petitioner or the respondent-bank/department would have precedence to recover the outstanding liabilities from M/s R.P.Basmati Rice Ltd.

3. It was stated by learned counsel for the parties that an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') filed by the respondents has been admitted by the National Company Law Tribunal, Chandigarh Bench, Chandigarh (in short 'NCLT') and Moratorium under Section 14(1) of the Code has been declared. The relevant portion of the order is reproduced as below:

“In view of the above, we declare the Moratorium in terms of sub section (1) of Section 14 of the Code as under:

(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;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.”

4. Learned counsel for the parties are ad idem that in view of the Moratorium issued by NCLT, the present petition has become infructuous and may be disposed of as such.

5. Ordered accordingly.

(AJAY KUMAR MITTAL)
JUDGE

25.02.2019
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No