IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.3521 of 2022
and WMP.No.3657 of 2022

M/s. Bafna Pharamaceuticals Limited,
a company incorporated under the Companies Act,
having its registered office at
Bafna Towers, New No.68, Old No.299,
Thambu Chetty Street,
Chennai - 600 001.
represented by its Chief Financial Officer,
Mr.M.Sridhar ... Petitioner

Vs.

The President,
Grantlyon Village Panchayat
Madhavaram High Road,
Vadakari Post, Grantlyon,
Puzhal, Tiruvallur District,
Tamil Nadu - 600 052. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of the respondent vide notice 32811, 32812, 32813, 32814, 32815 & 32816 dated 09.11.2021 and quash the same.

For Petitioner : Mr.T.Ravichandran

For Respondent : Mr.S.Ravichandran
Additional Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorari, to call for the records on the file of the respondent vide notice 32811, 32812, 32813, 32814, 32815 & 32816 dated 09.11.2021 and quash the same.

2. The petitioner company has been referred under IBC i.e., Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal, Chennai, for consideration and approval of resolution plan submitted by the Corporate Debtor. The said

resolution plan having been considered, was approved by the order of the Tribunal dated 01.02.2019.

3. Once the resolution plan having been approved, what are all the claims on the date of approval of such resolution plan has got frozen expect those, which has been specifically mentioned in the plan.

4. In that circumstances, now demand of property tax for the Assessment Years 2015-16 to 2019-20 have been made by the respondent i.e., Local Panchayat against the petitioner company. Therefore, challenging the said demand this writ petition is filed, in view of the aforesaid legal position, where the resolution plan was approved by the appropriate authority, whatever the claim made by the local authority like the respondent in respect of the property tax allegedly was due by the company with the erstwhile management cannot be claimed now i.e., till the resolution plan was approved and if at all any such due subsequently fall after the date of approval of the resolution plan, those demands, the petitioner is ready and willing to meet and they want to make a payment.

5. On these grounds, Mr.T.Ravichandran, learned Counsel appearing for the petitioner made submissions, assailing the impugned demand.

6. The learned counsel appearing for the petitioner in this regard also relied upon the decision of the Hon'ble Supreme Court in the case of Ghanashyam Mishra & Sons (P) Ltd. Vs. Edelwelss Asset Reconstruction Co.Ltd. [2021 (9) SCC 657] has held as follows:

> “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 bindig 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 no 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 nor part of the resolution plan.”

7. Relying upon the said judgment especially what has been held by the Hon'ble Supreme Court in the said order in Paragraph 102.1, in the concluding part of the judgment, the learned counsel appearing for the petitioner seeks indulgence of this Court against the impugned demand for the Assessment Years 2015-16 to 2019-20 i.e., till 01.02.2019, the date on which, the resolution plan was approved. Insofar as the future claim or demand is concerned, absolutely, the petitioner has no objection to make the payment as demanded.

8. In response to the same, Mr.S.Ravichandran, learned Additional Government Pleader appearing for the respondent would submit that insofar as the said Assessment Years i.e. for 2015-16 to 2019-20 are concerned, whether the petitioner is entitled to seek an exemption or waiver in view of the resolution plan, as claimed by them, approved by the competent authority under IBC has to be considered and accordingly, necessary orders would be passed by the respondent Panchayat and in this regard, already there has been a request made by the petitioner on 27.11.2021, the same would be considered and necessary orders to that effect on merits would be passed and depending upon the decision to be made in this regard by disposing the said request made by the petitioner dated 27.11.2021, whether the demand made from the year 2015-2016 to 2019-20 can be reiterated or not also would be decided accordingly, he contended.

9. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

10. As has been rightly putforth by the learned counsel appearing for the petitioner, there has been a resolution under IBC approved by the competent Court on 01.02.2019. Once the resolution plan was approved, what was the erstwhile claim made by any authority including the Central, State Governments as well as the local authorities like the respondents would get frozen and those claim, if at all had been made before the resolution professional, who filed the resolution plan before the concerned Court under IBC for approval, only those claim can be made and whatever the claim has not been submitted and has not been considered and it was not form part of the said resolution plan, those claim till the date of approval cannot be claimed. Therefore, in the case of the petitioner, the demand now made by the respondent for the years 2015-16 to 2019-20 is concerned, since those claim made by the local authority has not been part of the said resolution plan, those claim has got frozen and therefore, the said claim cannot be made once again by the local authority, in view of the law settled by the Hon'ble Supreme Court in the aforestated judgment in Ghanashyam Mishra & Sons (P) Ltd., case.

11. However, a formal application has already been made in this regard by the petitioner on 27.11.2021, requesting the respondent to consider those legal as well as the factual aspects and to give exemption or waiver for making the property tax for the Assessment Years 2015-16 to 2019-20 and the said application also, the learned Additional Government Pleader would submit that, the respondent would consider and order would be passed.

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

- That the respondent shall consider the application of the petitioner dated 27.11.2021, seeking exemption from making the payment of the property tax for the years 2015-16 to 2019-20 and pass orders thereon within a period four (4) weeks from the date of receipt of a copy of this order. While considering the said application, the respondent shall borne in mind that there was a resolution plan approved on 01.02.2019. Therefore, till such date, what all are the due which had not been claimed already or that was not form part of the resolution plan, those claims, like the present demand, for those years, cannot be made by the respondent and therefore in this regard, exemption can be given for those Assessment Years by the respondent.

- Insofar as the future demand from the Assessment Year 2020-21 onwards, there is no impediment for the respondent to make the claim and demand from the petitioner, for which, the petitioner cannot have any objection to make such payment of property tax from 2021 onwards. In view of the above, the impugned demand made for the years 2015-16 to 2019-20 are hereby set aside and the accordingly, the matter is remitted back to the respondent in terms of the aforesaid directions.

13. Accordingly, this writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kak/mp

To

The President,
Grantlyon Village Panchayat
Madhavaram High Road,
Vadakari Post, Grantlyon,
Puzhal, Tiruvallur District,
Tamil Nadu - 600 052.

+1cc to Mr.T.Ravichandran, Advocate, S.R.No.12261

W.P.No.3521 of 2022
and WMP.No.3657 of 2022

SV(CO)
CT 22/03/2022