

07
AGM/NB

25.05.2023
Ct. 07

WPA 12285 of 2023

MSP Metallics Limited
Vs.
Assistant Commissioner of Income Tax & Ors.

Ms. Sutapa Sanyal,
Mr. Debrup Bhattacharya,
Ms. Shusna Santra.
...for the petitioner.

Ms. Smita Das De.
...for the respondents.

Affidavit of service and supplementary affidavit be taken on record.

The petitioner is an income tax assessee.

By a letter dated 29th June, 2022 and 30th June, 2022, the petitioner informed the respondent no.1 that the Central Bank of India filed a petition on 27.01.2022 against the petitioner under Section 7 of the Insolvency and Bankruptcy Code, (IBC) seeking Initiation of Corporate Insolvency Resolution Process (CIRP).

The prayer for CIRP was admitted by the NCLT and one Meena Sureka was appointed as a Resolution Professional. It is the case of the petitioner that once a Corporate Insolvency Resolution Process is admitted, no fresh proceeding either civil or criminal be initiated against the petitioner and the pending proceeding is required to be stayed in view of Section 238 of the IBC, the provisions of IBC has overriding effect upon all other laws inconsistent therewith. The petitioner also raised a dispute regarding receipt of an amount of Rs.3,00,00,000/- (rupees three crores) from such entities stated in paragraph 4 ii.

Thus, the cause of action to file the instant writ petition arose when by an order dated 30th July, 2022 under Section 148(A)(d) of the IT Act, the respondent no.1 held that the reply/submission of your petitioner was not tenable and not satisfactory and notice was issued under Section 148 of the Income Tax Act.

In view of the aforesaid factual and legal position, the impugned proceeding including the aforesaid impugned order and subsequent proceedings including the order dated 15th May, 2023 is not sustainable in law and is liable to be quashed.

Accordingly, the impugned proceeding is quashed.

The instant writ petition is accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Bibek Chaudhuri, J.)