



WEB COPY



W.P.No.5365 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.5365 of 2022

and

W.M.P.No.5460 of 2022

Mr.Radhakrishnan Dharmarajan,
Chairman, Monitoring Committee,
Appu Hostels Limited, appointed by
NCLT, Chennai, Ex-Resolution Professional,
D3, Block 1, Triumph Apartments,
114 Jawaharlal Nehru Salai,
Arumbakkam, Chennai – 600 106.

... Petitioner

Vs.

The Joint Commissioner of Customs,
New Customs House,
Air Cargo Complex,
Meenambakkam,
Chennai – 600 027.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records on the file of the Respondent in F.No.S45/516/2010-EPCG-EODC culminating in Order dated 31.12.2021 passed by the Respondent and quash the same as illegal, arbitrary and devoid of merit.



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For Petitioner : Mr.D.Sairam Kumar
For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel for Customs

ORDER

This Writ Petition was filed by Mr.Radhakrishnan Dharmarajan, Chairman, Monitoring Committee of Appu Hotels Limited. He was appointed as the Resolution Professional by NCLT – Chennai.

2. In this Writ Petition the Petitioner has challenged the Impugned Order in Original No.622 of 2021 dated 31.12.2021.

3. The learned counsel for the Petitioner submits that the Corporate Insolvency Resolution Process (CIRP) initiated against the said Company has come to an end that the Corporate Debtor has taken over the Company and that the resolution professional has been also discharged by the NCLT, Chennai.



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4. The question arises whether the liability under the Impugned Order in Original No. 622 of 2021 dated 31.12.2021 has been in view of the proceedings under Insolvency and Bankruptcy Code, 2016 or not would require a detailed consideration. The Impugned Order in Original No. 622 of 2021 dated 31.12.2021 discharged is an appealable Order in terms of Section 128(1) of the Customs Act, 1962 and whether the demand confirmed pursuant to the Impugned Order can be enforced against the Company namely Appu Hotels Limited in the light of the proceedings before the Insolvency and Bankruptcy (IBC) and its culmination in terms of the decision of the Hon'ble Supreme Court in **Ghanashyam Mishra and Sons vs. Edelweiss Asset Reconstruction Company Limited**, 2021 (9) SCC 657 is a matter which can be decided by the Appellate Commissioner, if the Petitioner so desires.

5. Hence, liberty is given to file a Statutory Appeal before the Appellate Commissioner against the Impugned Order in Original No.622 of 2021 dated 31.12.2021 within a period of thirty (30) days from the date of receipt of a copy of this Order.



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C.SARAVANAN, J.

rgm

6. With the above liberty, the Writ Petition stands closed. No cost.

Consequently, connected Miscellaneous Petition is closed.

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(8/9)

Index : Yes/No

Speaking/Non-speaking Order

Neutral Citation :Yes/No

rgm

To
The Joint Commissioner of Customs,
New Customs House,
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