IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

T.C.A.Nos. 499 & 503 of 2012

Commissioner of Income Tax I,
Chennai. .. Appellant in both appeals

vs

M/s Empee Distilleries Ltd.,
No.59, Harris Road,
Pudupet, Chennai – 600 002. .. Respondent in both appeals

Prayer in TC(A) No. 499 of 2012: Appeal filed under Section 260 A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench dated 29.09.2008 in ITA No.506/Mds/2007 for assessment year 1998 – 1999.

Prayer in TC(A) No. 503 of 2012: Appeal filed under Section 260 A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench dated 29.09.2008 in ITA No.630/Mds/2007 for assessment year 2002 – 2003.

For Appellant	:	Mr.T.Ravikumar Senior Standing Counsel (in both appeals)
For Respondent	:	Mr.AR.Karthik Lakshmanan (in both appeals)

COMMON JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

Heard Mr.T.R.Ravikumar, learned Senior Standing Counsel, for the appellant/Department and Mr.AR.Karthik Lakshmanan, for the respondent/assessee.

2. On 08.11.2024, we have recorded the submission of the learned counsel to the effect that the assessee has undergone Corporate Insolvency Resolution Process as per the Insolvency and Bankruptcy Code, 2016.

3. Today, learned counsel submits that though the Income-Tax Department has submitted claims in respect of assessment years 2007 – 08, 2008 – 09, 2009 – 10 (FBT), 2010 – 11, 2011 – 12, 2012 – 13, 2013 – 14, 2014 – 15 & 2015 – 16, no claim has been made in respect of the demands arising from the subject appeals that relate to assessment years 1998 – 99 and 2002 – 03.

4. Mr.Ravikumar, has had no occasion to verify the above aspect of the matter and hence we merely record the submissions of learned counsel for the assessee/respondent in this regard.

5. We have also been supplied with a copy of the Resolution Plan that was submitted before the National Company Law Tribunal, Chennai and our attention has been drawn to paragraphs 6 to 8 thereof. Prima facie, we do not find reference to the claims of the Income-Tax Department and hence it is likely that those claims have not been

admitted to form part of the Resolution Plan.

6. In light of the judgment of the Supreme Court in *Ghanasyam Mishra & Sons Pvt Ltd v Edelweiss Asset Reconstruction* [(2021) 9 SCC 657], the resolution plan will be the the final word in respect of the claims of various creditors and the conclusions of the Court are as follows:-

> *"Conclusion*
> *102. In the result, we answer the question 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 binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stake holders. 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.*
> *102.2 The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.*
> *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.*
> *103. In the light of what has been held by us hereinabove, we now proceed to decide individual matters."*

7. The ratio of the aforesaid judgment has been reiterated in the case of *Commissioner of Central Excise and Service Tax, Bhavnagar v Reliance Naval Engineering Ltd* (C.A.No.5054 & 5100 of 2021 dated

01.08.2024].

8. In light of the aforesaid, there is no merit in the appeals filed by the Appellant as the demands arising from those impugned orders have lapsed in light of the events captured in the paragraphs supra.

9. Recording the aforesaid, these appeals are closed returning the questions of law admitted on 09.04.2013 as unanswered. No costs.

[A.S.M., J] [G.A.M., J]
10.12.2024

Index:Yes/No
Neutral Citation:Yes
ssm

DR. ANITA SUMANTH.,J.
and
G. ARUL MURUGAN.,J.

ssm

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