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

ITA-182-2018 (O&M)
Date of Decision: 27.08.2024

The Pr. Commissioner of Income-Tax, Patiala .....Appellant

versus

M/s J.J. Solvex Private Limited .....Respondent

CORAM: HON'BLE MR JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR JUSTICE SANJAY VASHISTH

Present: Mr. Amanpreet (A.P.) Singh, Senior Standing Counsel for the appellant.

Mr. Reshabh Bajaj, Advocate, for the respondent.

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SANJEEV PRAKASH SHARMA, J.

Learned counsel for the respondent has pointed that the respondent has after being declared insolvent in terms of Insolvency and Bankruptcy Code, 2016 has been taken over by auction purchaser in resolution plan as accepted by the NCLT in IA No. 243 of 2021 in terms of the approval by the Committee of the Creditors vide order dated 08.07.2022, the appellant Central Government Income Tax Authority, therefore, would have no stack of claim against the newly appointed auction purchaser of the property of the respondent in view of judgment of Supreme Court in ***Ghanashayam Mishra and Sons Private Limited vs Edelweiss Asset Reconstruction Company Limited*** 2021 (9) SCC 657, wherein it has been held as under:-

> *"Conclusion*
>
> *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 binding 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 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."

2. In view of the fact that the respondent company has been declared insolvent under the IBC, 2016 and the resolution plan was accepted and approved by the Committee of Creditors and the auction purchaser cannot be held liable for the payment of dues arising under any law which are of the Central Government or any State Government or any

local authority, the claim of the Income Tax Department shall stand foreclosed after the order passed by the NCLT on 08.07.2022. The ITA (Appeal), therefore, has become infructuous and is accordingly dismissed.

3. All pending applications shall stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

27.08.2024
Seema/vs

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*