

Pallavi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2220 OF 2025**

Srei Equipment Finance Ltd. ...Petitioner

Versus

Assistant Commissioner, DIV-III
CGST & C-EX, Navi Mumbai & Ors. ...Respondents

Mr. Parth Badheka, a/w Nikita R. Badheka and Nikhil Mengde, for Petitioner.

Mr. Vijay H. Kantharia, a/w Suman Das for Respondent No.1.

Mrs. Shehnaz V. Bharucha i/b. A.A. Ansari, for Respondent No.2.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 16 October 2025

P.C.:-

1. Heard Mr Parth Badheka and Ms Nikita Badheka, for the Petitioner and Mr Kantharia with Mr Das, the learned for 1st Respondent. Ms. Bharucha appears for the 2nd Respondent.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. On the earlier dates, Mr Badheka had submitted that the issue raised in the Petition was squarely covered by the decisions of the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction***

Company Limited and Ors.¹ and ***Vaibhav Goel v. DCIT***².

4. Accordingly, by our order of 28 July 2025, we had requested the learned counsel for the Respondents to obtain instructions.

5. Though the instructions are wanting, the learned counsel for the Respondents submitted that the impugned order dated 25 February 2025 was correctly made and in any event, the Petitioner have alternate and efficacious remedy to appeal the same. He submitted that since the Petitioner has an alternate and efficacious remedy, this Court should not entertain this Petition.

6. Ordinarily, we would have sustained the objection now raised on behalf of the Respondents. However, this is a case which pertains to the A.Y. 2021. The record shows that the RBI initiated Corporate Insolvency Process (**CIRP**) under the Insolvency Bankruptcy Code 2016 (**IBC Code**) on 8 October 2021 against the Petitioner. The resolution order was made on 11 August 2023. There is nothing on record to show that the Respondents herein who have now made the impugned order or raised the impugned demands intervened in the CIRP and sought for any reliefs therein.

7. Still, by ignoring the resolution order of 11 August 2023, a show-cause notice dated 27 November 2024 was issued to the Petitioner in respect of the CGST dues for the A.Y. 2020-21. The Petitioner replied to the show-cause notice and objected to raising of any demand given the law laid down in ***Ghanashyam Mishra (supra)*** and ***Vaibhav Goel v. DCIT (supra)***. Despite these objections, the impugned order dated 25 February 2025 came to

¹ (2021) 91 GSTR 28 (SC)

² Civil Appeal No.49 of 2022 decided by Hon'ble Supreme Court on 20 March 2025.

be issued. Hence, this Petition. Since the legal position is fairly settled by the two decisions relied upon by Mr Badheka, we do not think that this is a fit case to relegate the Petitioner to avail the alternate remedy of appeal. The two decisions bind the Respondents and the Respondents should have followed them and discharged the show-cause notice. Mr. Badheka also referred to the decision of the Hon'ble Supreme Court in the case of ***JSW Steel Limited vs. Pratishtha Thakur Haritwal & Ors.***³ in which the Hon'ble Supreme Court had the occasion to consider the issue of authorities not following the decision of the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra (supra)***. The Hon'ble Supreme Court held that the continuation of proceedings by the Respondents/Authorities even after the judgment in ***Ghanashyam Mishra (supra)*** was specifically brought to their notice was contemptuous in nature. The Respondents/Authorities were not convicted for contempt but were given the benefit of doubt. Given the fact that the matter before the Hon'ble Supreme Court was one of the first cases arising out of the judgment in the case of ***Ghanashyam Mishra (supra)***. In ***Ghanashyam Mishra (supra)*** and in ***M/s. Monet Ispat and Energy Ltd. & Anr. vs. State of Odisha and Anr.***⁴, the Hon'ble Supreme Court, after detailed consideration of the provisions of IBC has held that once a Resolution Plan is duly approved by the adjudicating authority, then, claims as provided in the Resolution Plan shall stand frozen and will be binding on the corporate debtor and others to claim through the corporate debtor. On the date of approval of the Resolution Plan by the adjudicating authority, all such claims, which are not part of the Resolution

³ CP (C) No.629 of 2023 in WP (C) No.1177 of 2020

⁴ WP (C) 1177 of 2020

Plan, shall stand extinguished and no person will be entitled to continue any proceedings in respect to a claim, which is not a part of the Resolution Plan. Consequently, all the dues including the statutory dues both to the Central Government and any State Government or any local authority, if not a 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 of the IBC would be continued.

8. Thus, the Hon'ble Supreme Court, in the decisions relied upon by Mr Badheka has, in unequivocal terms held that all such claims which are not part of the Resolution Plan, shall stand extinguished and no person shall be entitled to continue any proceedings in respect to a claim, which is not part of the Resolution Plan. The Court also held that 2019 amendment to Section 31 of the Code is only clarificatory and declaratory in nature and therefore, will be effective from the date on which the Code has come into effect. The Court clearly held that all the dues including the statutory dues both to the Central Government or any State Government or any local authority, if not a 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 of the IBC would be continued. The Court also declared that the Respondents before it were not entitled to recover any claims or claim any debts owed to them from the corporate debtor accruing prior to the transfer date.

9. Given the clear pronouncement by the Hon'ble Supreme Court Respondents were not justified in issuing the show-cause

notice dated 27 November 2024 and disposing of the show-cause notice by making an order dated 27 February 2025. The proceedings post 11 August 2023 were in the teeth of the law laid down by the Hon'ble Supreme Court and consequently, must be held to be held to be wholly without jurisdiction.

10. On the above ground, and by following the decisions of the Hon'ble Supreme Court referred to hereinabove, we quash and set aside the impugned order dated 25 February 2025.

11. The Rule is made absolute in the above terms without any costs order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)