IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2698 OF 2025

Ornate Spaces Private Limited .. Petitioner

Versus

Dy. Commissioner of Income Tax,
Circle-8(2)(1) Mumbai & Ors. .. Respondents

Ms. A. Vissanji, Advocate for the Petitioner.

Mr. P. A. Narayanan, Advocate for the Revenue/Respondent.

CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JULY 21, 2025

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition seeks quashing and setting aside of the impugned notice dated 28th March 2025 issued under Section 148 of the Income Tax Act, 1961 for the A.Y. 2021-22. Consequently, the notice issued under Section 142(1) dated 2nd June 2025 for the very same assessment year is also impugned.

3. Short point on which the above Notices are impugned is that the Notice issued under Section 148 seeks to assess the income that has escaped assessment. According to the Petitioner the impugned proceedings are academic since no demand can be raised upon the Petitioner for A.Y.2021-22. This is for the simple reason that prior to the issuance of the Notice under Section 142(1), a revised Resolution Plan in relation to the Petitioner was approved on 6th October 2023. Paragraph 8.27 of the revised Resolution Plan *inter alia* provides that all tax liabilities, claims, or demands made by, or liabilities owed or payable to, or assessed or unassessed, by the Central Government, the State Government, any regulatory or local authority or body or any agency or instrumentality thereof .... in relation to any dues, direct or indirect taxes, duties .... whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the financial statements of the Corporate Debtor or the list of Operational Creditors, in relation to any period prior to the NCLT Approval Date shall be deemed to be permanently extinguished by virtue of the order of the NCLT approving the Resolution Plan and the

Corporate Debtor and the Resolution Applicant shall at no point of time be, directly or indirectly held responsible or liable in relation thereto.

4. Once the Resolution Plan has been approved, then the dues of the Income Tax Department would have to be governed by what is stated in the Resolution Plan and no Notice under Section 148 could have been issued after the approval of the Resolution Plan for any period prior thereto, was the argument.

5. After hearing the learned counsel for the parties, we are of the opinion that this issue is no longer *res integra* and is covered by a decision of this Court in the case of ***Alok Industries Ltd V/S Assistant Commissioner of Income-tax [(2024) 161 taxmann.com 285 (Bombay)]***. In fact recently, even the Hon'ble Supreme Court in the case of ***Vaibhav Goel & Anr. V/S Deputy Commissioner of Income-Tax & Anr. [(2025) 255 Company Cases 266 (SC)]*** has taken a view that once the Resolution Plan is approved by the Adjudicating Authority, no belated claim can be included therein. If one were to allow this, the Resolution Applicants would not be in a position to recommence the business of the Corporate Debtor on a clean slate as held by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons P. Ltd V/S Edelweiss Asset Reconstruction Co. Ltd [(2021) 9 SCC 657]***.

6. In view of the foregoing discussion the above Writ Petition succeeds and the impugned notices dated 28th March 2025 and 2nd June 2025 are hereby quashed and set aside.

7. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Utkarsh