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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **<u>W.P.(C) 3198/2024 and CM APPL.13149/2024</u>**

VALUE INFRACON INDIA PVT LTD .....Petitioner

Through: Mr Vikas Tiwari, Mr Kumar Deepraj and Ms Arushi Rathore, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr Vipul Agarwal, senior standing counsel.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

<u>O R D E R</u>

% **20.05.2025**

1. The petitioner has filed the present petition, *inter alia*, praying as under:

> "a) Issue a writ, order or direction in the nature of certiorari, thereby quashing the undated Demand Notice (Communication Ref. No.17012024/ 00106/ CD) issued by the Respondents (**Annexure No. 01**), demanding Rs. 2,23,62,052/ - from the Petitioner Company, as income tax."

2. In terms of the impugned notice, which this Court is informed was issued on 17.01.2024, the concerned authority had called upon the petitioner to pay an amount of ₹2,23,62,052/- and in case of any query to appear before the concerned authority on 29.01.2024 at 11:00 am. The details of the said demand, which is set out in the impugned notice, is reproduced below:

For TAN: DELV07698F, Name of TAN: VALUE INFRACON INDIA PRIVATE LIMITED					
Financial Year	**CPC Processed demand generated from**	**Demands Uploaded by**	**CPC Generated (Penalty, 201**	**ITD System Demand generated up**	**Gross Demand**

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	18 October 2012 (Rs.)	Field AO (Rs.)	etc) Demand (Rs.)	to 18 October 2012 (Rs.)	Amount (Rs.)
2007-08	-	-	-	1160.00	1160.00
2008-09	-	-	-	232120.00	232120.00
2009-10	58300.00	-	-	592470.00	650770.00
2010-11	-	901641.00	-	611660.00	1513301.00
2011-12	5601180.00	2823095.00	-	150920.00	8575195.00
2012-13	2085170.00	-	-	-	2085170.00
2013-14	594880.00	-	-	-	594880.00
2014-15	12800.00	8592156.00	-	-	8604956.00
2023-24	104500.00	-	-	-	104500.00
Total Amount (Rs.)	**8456830.00**	**12316892.00**	**0**	**1588330.00**	**22362052.00**

3. It is the petitioner's case that the petitioner company had undergone a Corporate Insolvency Resolution Process [**CIRP**] under the Insolvency and Bankruptcy Code, 2016 [**IBC**] and a resolution plan was approved on 28.04.2022. Pursuant to the said resolution plan, a new set of persons had taken over the management of the petitioner company.

4. It is stated that since the resolution plan did not specify any outstanding towards the income tax dues prior to 28.04.2022, the same would stand extinguished.

5. Concededly, this issue is covered by the decision of the Supreme Court in ***Ghanashyam Mishra & Sons (P.) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.: (2021) 9 SCC 657***. In view of the above, the impugned notice is not sustainable.

6. Mr. Aggarwal, the learned counsel for the Revenue submits that the National Company Law Tribunal [**NCLT**] was misled into approving the resolution plan. It was reported by the creditors in the information memorandum that there were no outstanding dues towards income tax.

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However, this was patently incorrect as notices had been issued by the concerned income tax authority to the petitioner prior to the approval of the resolution plan and also during the period when the petitioner company was undergoing the CIRP. However, Mr. Aggarwal does not dispute that no such claim had been filed by the income tax authorities before the resolution professional [**RP**].

7. In addition, he submits that the part of the demand pertains to financial year [**FY**] 2023-24, which is not covered under the resolution plan.

8. It would not be apposite for this Court to disregard the resolution plan, as concededly the same is binding on the parties. In view of the above, the impugned notice to the extent that it relates to dues from FY 2007-08 to 2014-15, is hereby set aside. The impugned notice also includes a demand of ₹1,04,500/- in respect of FY 2023-24. The impugned notice to the said extent shall stand.

9. Having stated the above, we also consider it apposite to clarify that in the event, the Revenue takes any steps for modification of the resolution plan or secures any order for recalling the same, it would be open for the Revenue to seek a recall of this order.

10. The petition is disposed of in the aforesaid terms. The pending is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 20, 2025
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Click here to check corrigendum, if any

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