$~43

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

\+ W.P.(C) 4463/2024 & CM APPL. 18308/2024 (Interim Relief)

GKC PROJECTS LIMITED .....Petitioner

Through: Mr. M.V. Mukunda, Adv.

versus

GOVERMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS. .....Respondents

Through: Ms. Mehak Nakra, ASC with Ms. Gunjan Suyal & Mr. Aditya Goyal, Advs.
Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel, Mr. Ankit Gupta, Mr. Mayank Kamra & Mr. Siddharth Goel, Advs.
Mr. Varun Vats, SPC for Resp./ UOI.
Mr. Akshay Amritanshu, SSC with Ms. Drishti Saraf & Ms. Pragya Upadhyay, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **15.01.2025**

1. The writ petitioner was successfully resurrected pursuant to the resolution plan coming to be approved under the IBC. It impugns the demand referable to Section 73 of the Central Goods & Services Tax Act, 2017 ["**Act**"] and which has come to be raised for the period July 2017 to March, 2018. Undisputedly, the Resolution Plan had come to be approved by the National Company Law Tribunal on 30 March 2021.

2. It is in the aforesaid backdrop that learned counsel draws our attention to the following pertinent observations which came to be rendered by the Supreme Court in **Ghanshyam Mishra & Sons Pvt. Ltd. vs Edelweiss Asset Reconstructions Company Ltd. through the Director & Ors.** [(2021) 9 SCC 657]:-

> "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.."

3. We take note of an identical challenge which had been raised by the present writ petitioner in WP(C) 16574/2024 and where too the demand under the Act was ultimately withdrawn basis the concession which was made by the respondents in those proceedings.

4. In view of the settled position which would obtain in this respect, we proceed to allow the instant writ petition and quash the impugned order dated 31 December 2023.

5. The writ petition shall stand disposed of on the aforesaid terms.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 15, 2025/kk