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

WRIT PETITION NO.3687 OF 2025

Aventura Properties Ltd. .. Petitioner.

Versus

Deputy Commissioner of Income Tax
8 (2)(1) & Others .. Respondents.

Adv. Sham Walve with Adv. Bhavik Chheda *i/b. Adv. Tejveer Singh, for the Petitioner.*

Adv. Akhileshwar Sharma (through V. C.), *for the Respondents.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: MARCH 23, 2026

P. C.

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

2 The present Writ Petition is filed by the Petitioner seeking a direction against the Respondent Revenue to extinguish the demands against the Petitioner pertaining to the period prior to the initiation of the Corporate Insolvency Resolution Process (for short **'CIRP'**) and

deletion of such demand from the Income Tax and TDS Portals as appearing against the name of the Petitioner.

3 Brief facts of the case are that one Piramal Capital Housing Finance Ltd, as a Financial Creditor, initiated CIRP against an entity named S.K. Elite Industries (India) Ltd. u/s 7 of the Insolvency & Bankruptcy Code, 2016 (for short **'IBC'**) on 7th May 2021. It is submitted by the Petitioner that the name of '*S.K. Elite Industries (India) Ltd.*' was subsequently changed to '*S.K. Elite Industries Ltd.*' with effect from 7th July 2021 as per the *Certificate of Incorporation pursuant to change in name* issued by the Registrar of Companies, Mumbai. It is further submitted by the Petitioner that the name of S.K. Elite Industries Ltd. was changed to '*Aventura Properties Ltd.*' with effect from 21st June 2024 as per the *Certificate of Incorporation pursuant to change in name* issued by the Registrar of Companies, Mumbai. Although the name of S.K. Elite Industries (India) Ltd. was changed to S.K. Elite Industries Ltd. with effect from 7th July 2021, yet the proceedings before the NCLT Mumbai continued and concluded in the name of S.K. Elite Industries (India) Ltd.

4 It is claimed by the Petitioner that the entity as it then was, *viz.* 'S.K. Elite Industries Ltd.'*,* had duly intimated the Jurisdictional Assessing Officer, i.e. Respondent No. 1, about the initiation of the CIRP *vide* an email dated 7th July 2021 *(Exhibit 'A')* through its Interim Resolution Professional.

5 Pursuant to the CIRP, a Resolution Plan submitted by one Mr. Atul Richard Rawat (representative of the Metro Realty Group) came to be approved by the NCLT, Mumbai Bench, Court-II *vide* its Order in *Piramal Capital Housing Finance Ltd, Financial Creditor Versus S.K. Elite Industries (India) Ltd., Corporate Debtor in IA No. 1415/MB/2023 IN CP(IB) No. 1474/MB/C-II/2019 dated 15th May 2023* as per Section 31 of the IBC *(Exhibit 'C')*. The NCLT in its said Order dated 15th May 2023, at internal Page No. 15, Paragraph No. (viii), has made a reference to the decision of the Hon'ble Supreme Court in ***Ghanshyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. & Ors. [(2021) 9 SCC 657]*** stating that on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of the Resolution Plan shall stand extinguished and no person will be entitled to initiate or continue any

proceedings in respect of a claim which is not a part of the Resolution Plan.

6 Thereafter, due to some inconsistencies in the directions of the NCLT Order, Mr. Atul Richard Rawat, i.e. the successful Resolution Applicant, filed an Application before the NCLT seeking clarifications in respect of the said Order, especially with regards to past liabilities that may be raised by Government Authorities. Consequently, the NCLT *vide* its Order in *Piramal Capital Housing Finance Ltd Versus S.K. Elite Industries (India) Ltd in IA 4179/2023 IN CP(IB) No. 1474 (MB) 2019* dated 18th October 2023 *(Exhibit 'D')* clarified that all the past liabilities of the Corporate Debtor which are not part of the Resolution Plan shall stand extinguished from the date of approval of the Resolution Plan.

7 Be that as it may, the Income Tax Department through the Income Tax Officer (TDS) Ward 2(2)(2) issued an Intimation of Outstanding Demand dated 23rd July 2024 to 'S.K. Elite Industries Ltd.' for multiple Assessment Years *(Exhibit 'E')*. Thereafter, 'S.K. Elite Industries Ltd.' replied to the Intimation *vide* its letter dated 21st August 2024 *(Exhibit 'F')* referring to the NCLT's Order dated 18th October

2023 and requested the Income Tax Officer (TDS) Ward 2(2)(2) to give effect to the said Order dated 18th October 2023. It was pointed out that the Petitioner had undergone insolvency proceedings and hence the demands would be deemed to be permanently extinguished. It is the Petitioner's case that since then, they have addressed various communications to the Department requesting them to delete the outstanding demands reflected on Income Tax and TDS Portals.

8 In this factual backdrop, Mr.Walve, the learned counsel appearing for the Petitioner, submits that once a Resolution Plan has been approved in accordance with the provisions of the IBC, the dues of the Income Tax Department would be governed by what is stated in the Resolution Plan approved by the NCLT. He also submits that the facts relating to the NCLT Orders were brought to the notice of the Income Tax Department, and therefore, the authorities should have given effect to the same and extinguished the demands. In this regard, Mr. Walve relied upon the judgement of the Hon'ble Supreme Court in ***Ghanshyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. & Ors. [(2021) 9 SCC 657]*** . He further pointed out that during the pendency of this Writ Petition, the Income Tax Department

has adjusted an amount of around Rs. 25,00,000/- towards pre-CIRP outstanding demands against refunds which were due to the Petitioner. In view of the same, he submits that the Respondent Revenue be directed to extinguish the demands on the Income Tax Portal by giving effect to the NCLT's Orders and consequently refund the amount wrongly adjusted.

9 Mr. Akhileshwar Sharma, the learned counsel appearing for the Respondents, agrees with the proposition that pre-CIRP demand cannot be enforced by the Respondent Revenue after the approval of the Resolution Plan. He further submits that during pendency of the present Writ Petition, the Income Tax Officer TDS Ward 1(1)(2) Mumbai has already given effect to the NCLT's Orders. Mr. Sharma tenders a copy of the Order Giving Effect ("OGE") dated 13th October 2025 which is taken on record and marked 'x' for identification. He submits that by the said order dated 13th October 2025, the pre-CIRP demand for Financial Years 2017-18, 2019-20 an 2021-22 for a total amount, in aggregate, of Rs. 1,73,250/-, was deleted. He therefore submits that nothing would survive in the petition.

10 Mr. Walve submits that pre-CIRP demands were appearing against the Petitioner under two different heads as set out in Paragraph No. 8 of the petition and are as under:

DUES ON THE INCOME TAX PORTAL

Demand Ref No.	AY	Outstanding Demand	Accrued Interest	Date of Demand Raised
2019201837029397496C	2018	6,91,020	3,86,020	13.06.2019
2019201737065072986C	2017	8,77,910	8,53,875	22.11.2019
2023201537001093376C	2015	5,15,770	31,668	22.05.2023

DUES ON THE TRACES PORTAL

Financial Year	Processed Demand
2017-18	1,70,400
2019-20	12,510
2021-22	1800

11 Mr. Walve submits that the dues on the Traces Portal were in respect of the short/less payment/deposit of TDS deducted, and the dues on the Income Tax Portal are in respect of the demand arising out of Intimation and/or Assessment Order. The Order dated 15th May 2023

passed by the Income Tax Officer TDS Ward 1(1)(2) Mumbai giving effect to the NCLT Orders is only in respect of the dues on the Traces Portal pertaining to the short deposit of the TDS deducted. He submits that another order is required to be passed by the Jurisdictional Assessing Officer, i.e. Respondent No. 1, deleting the pre-CIRP demand as appearing on the Income Tax Portal in respect of the demand arising out of any Intimation and/or Assessment Order. After deletion of the demand, the Jurisdictional Assessing Officer is required to take appropriate action determining the refunds due to the Petitioner.

12 Mr. Sharma fairly agrees that the pre-CIRP demand, both for non-payment/short payment of TDS as well as the demand arising out of any Intimation and/or Assessment Order will not survive and has to be extinguished after the Resolution Plan is approved. He submits that if there is any demand on the Income Tax Portal pertaining to the period prior to the Resolution Plan but not deleted, the same would not survive and subject to verification, the same is required to be deleted.

13 We have heard the learned counsel for parties and considered their submissions. The limited issue to be decided is whether the Income Tax Department could have proceeded against the

Petitioner after approval of Resolution Plan by the NCLT for enforcement of a demand pertaining to a period prior to approval of such Plan. The law in this regard is settled by several judgements of the Hon'ble Supreme Court as well as this Court. A similar issue came up for consideration before this Court in ***Swan Defence and Heavy Industries Ltd. vs. Assistant Commissioner of Income Tax [Writ Petition (L.) No. 18145 of 2025 decided on 5th August, 2025]***. In that case, following the ratio laid down by Hon'ble Supreme Court in ***Ghanshyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. & Ors. [(2021) 9 SCC 657]*** and ***Vaibhav Goel & Another v/s. Deputy Commissioner of Income Tax & Another [(2025) 255 Company Cases 266 (SC)]***, this Court held that once the Resolution Plan is approved by the Adjudicating Authority (under the IBC), 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 with a clean slate.

14 In the above circumstances and the position in law, we hereby pass the following order:

(i) Respondent No. 1 is directed to give effect to the NCLT's Order dated 15th May 2023 read with the Order dated 18th October, 2023, and extinguish all the demands relating to the period prior to the Resolution Plan on the Income Tax Portal and re-compute the Petitioner's liability and / or refund, if any within a period of four weeks from the date of uploading this order.

(ii) The Respondents are also directed to issue refunds due to the Petitioner, which may arise upon extinguishment of demands relating to the period prior to the Resolution Plan and adjustment of refunds, if any, as expeditiously as possible and in any event within eight weeks from the date of uploading this order.

15 Rule is made absolute in the above terms and the Writ Petition is also disposed of in terms thereof. No orders as to costs.

16 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.]**

S.R.JOSHI