2026:AHC:207861-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 8262 of 2025

M/S Gactel Turnkey Projects Ltd

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Vedant Agarwal
Counsel for Respondent(s) : Ravi Kant Surolia, C.S.C., Mehul Khare

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Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri Vedant Agarwal, learned counsel for the petitioner, Sri Ankur Agarwal, learned Senior Standing Counsel for the State-respondents, Sri Ravi Kant Surolia, learned counsel for the respondent No.6, Sri Mehul Khare, learned counsel for the respondent No.5 and perused the records.

2. Present writ petition has been filed with the following relief:

> *"(i) Issue a writ, order or direction in the nature of Certiorari quashing the impugned demand order dated 26.03.2025 (Annexure-1 to the writ petition) passed under Section 28 of the U.P. Value Added Tax Act, 2008 by the Assistant/Deputy Commissioner, Sector-9, State Tax, Prayagraj (U.P.) (respondent no. 3) for F.Y. 2009-10;*
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> *(ii) Issue a writ, order or direction in the nature of Certiorari quashing the impugned bank account attachment order dated 08.12.2025 (Annexure-2 to the writ petition) passed under Section 33(11) of the U.P. Value Added Tax Act, 2008 by the Deputy Commissioner, Sector-7, State Tax, Prayagraj (U.P.) (respondent no. 4);*
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> *(ii-a) Issue a writ, order or direction in the nature of Certiorari quashing the impugned bank account attachment order dated 27.08.2025 (Annexure-2A to the writ petition) passed under Section 33(11) of the U.P. Value Added Tax Act, 2008 by the Deputy Commissioner, Sector-7, State Tax, Prayagraj (U.P.) (respondent no. 4);"*

3. At the outset, it has been relied on an order passed by a coordinate bench in **M/S Tehri Iron and Steel Casting Limited and 2 others vs. State of U.P. and 2 others, 2025:AHC:108933-DB**. In that, it has been observed as below:

> *"4. Learned counsel appearing on behalf of the petitioners, to buttress his argument that once the Resolution Plan has been approved by the NCLT, the Commercial Tax Department cannot create further dues by way of passing orders, has relied upon the following judgments, viz. (i) Ghanshyam Mishra and Sons (P) Ltd. Vs. Edelweiss Asset Reconstruction Co. Ltd., reported in [SC] [2021] 126 Taxmann.com 132/166 SCL 237 (SC), (ii) N.S. Papers Ltd. Vs. Union of India and Others [Writ Tax No. 408 of 2021, decided on December 11, 2024], (iii) Vaibhav Goyal & Another Vs. Deputy Commissioner of Income Tax & Another [Civil Appeal No. 49 of 2022, decided on March 20, 2025] (SC) and (iv) Committee of Creditors of Essar Steel India Ltd. Through Authorised Signatory Vs. Satish Kumar Gupta & Others [2019] 16 S.C.R. 275].*
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> *5. This Court, in Writ Tax No. 408 of 2021 [M/S NS Papers Limited And Another Vs. Union of India Through Secretary and Others], after dealing with a catena of judgments rendered by the Supreme Court and also other High Courts held as follows:*
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> *"11. He further submits that if proceedings under the Act could be initiated, continued with and culminated during the course of CIRP and institution of Moratorium u/s 14 of the Code, the following may also kindly be considered, for these have a bearing on the fact that income tax proceedings should not get shadowed or extinguished merely by the institution of CRIP and passage of a moratorium order, unless the proceedings were clearly inconsistent with or repugnant to any provisions of the Code, which is not the case here.*
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> *12. Upon considering the facts and circumstances of the case, we are of the view that the arguments raised by the learned counsel appearing on behalf of the respondents is without any merit on two counts. Firstly, it is clear by the letter dated March 8, 2021 that the petitioner had informed the Income Tax Authorities with regard to approval of resolution plan. Secondly, the department itself had filed a claim before the Resolution Professional, and accordingly, the argument that the department was not aware of the IBC proceedings holds no water.*

13. Even assuming that the department was not informed about the proceedings, the law is very clear as expounded in the judgments cited above. The resolution applicant cannot be saddled with new claims once a resolution plan has been approved.

14. The argument that an assessment that has been kept pending for a prior period and is quantified subsequent to the approval of the Resolution Plan is an argument in sophistry. If this argument is accepted then all authorities would be in a position to keep assessment/re-assessment pending till completion of the Resolution Plan, and thereafter, culminate the same and saddle the successful Resolution Applicant with an unknown burden. Such an action cannot be countenanced as the same would be an anathema to the fundamental principles of the moratorium provided under the Code. The law cannot be read in a manner wherein the basic structure of the Code is breached by hindering the flow of the same by creation of roadblocks and dams ? the underlying principle of the Code is to give a fresh start to the Resolution Applicant. Any new liability being fastened after the approval of the Resolution Plan would inherently and palpably be illegal and go beyond the Lakshman Rekha of the Code.

15. In light of the above, the impugned assessment order dated April 28, 2021 is quashed and set aside. In the event any penalty proceedings have been initiated by the department, the writ petitioner shall be at liberty to challenge the same in accordance with law."

6. The above view has been fortified by the Supreme Court in Vaibhav Goyal & Another Vs. Deputy Commissioner of Income Tax & Another [Civil Appeal No. 49 of 2022, decided on March 20, 2025] (SC). The relevant paragraphs are delineated below:

"8. In view of the declaration of law made by this Court, all the dues including the statutory dues owed to the Central Government, if not a part of the Resolution Plan, shall stand extinguished and no proceedings could be continued 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 IB Code. In this case, the income tax dues of the CD for the assessment years 2012-13 and 2013-14 were not part of the approved Resolution Plan. Therefore, in view of sub-section (1) of Section 31, as interpreted by this Court in the above decision, the dues of the first

respondent owed by the CD for the assessment years 2012-13 and 2013-14 stand extinguished.

...

12. Once the Resolution Plan is approved by the NCLT, no belated claim can be included therein that was not made earlier. If such demands are taken into consideration, the appellants will not be in a position to recommence the business of the CD on a clean slate. On this aspect, we may note what is held in paragraph 107 of the decision of this Court in the case of Committee of Creditors of Essar Steel India Ltd. [Civil Appeal No. 49 of 2022]. Paragraph 107 reads thus:

"107. For the same reason, the impugned NCLAT judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count."

(emphasis added)

13. The additional demands made by the first respondent in respect of the assessment years 2012-13 and 2013-14 will operate as roadblocks in implementing the approved Resolution Plan, and appellants will not be able to restart the operations of the CD on a clean slate.

14. We, therefore, hold that the demands raised by the first respondent against the CD in respect of assessment years 2012-13 and 2013-14 are invalid and cannot be enforced. We set aside the impugned orders of

NCLT and NCLAT and allow the appeal accordingly."

7. In view of the above law laid down by the Supreme Court, we are of the view that the principle is crystal clear that once Resolution Plan has been approved by the NCLT, all other creditors are barred from raising their claims subsequently, as the same would disrupt the entire resolution process. The Supreme Court has categorically held the same as indicated above. "

4. Facts being similar of the legal issue having been dealt with by means of the order noticed above, the present writ petition is also **allowed** on the following terms:

The impugned Assessment Orders dated 26.03.2025 passed under Section 28 of the U.P. VAT Act, 2008 as also impugned bank account attachment orders dated 08.12.2025 and 27.08.2025 under Section 33(11) of U.P. VAT Act, 2008 against the petitioner relating to financial year 2009-10, are quashed.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

October 5, 2026

Anurag/-

Digitally signed by :-
ANURAG JAISWAL
High Court of Judicature at Allahabad