Rabirun Vinimay Pvt. Ltd. & Anr. v. Union of India & Ors.

A GST demand raised for a period after the corporate debtor had already been sold as a going concern in liquidation, with pre-CIRP claims extinguished by the NCLT's own sale order. At issue: whether such a demand could be initiated at all once the sale

Date of Order: November 12, 2025
Case Law No: GIB-CHC-2025-60
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CASE DESCRIPTION / SUMMARY

Background.

On an application by UCO Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016, CIRP was initiated against the first petitioner and admitted by the NCLT, Kolkata Bench on 07.03.2019. The process failed to produce a viable resolution plan and the company was admitted into liquidation on 05.03.2020. In liquidation it was sold as a going concern, the sale being confirmed by the NCLT on 11.12.2023 with waivers extinguishing claims arising prior to the initiation of CIRP which had not been lodged. An order in original dated 31.08.2024 under Section 73 nonetheless raised a demand of Rs. 4,28,33,922 with interest and penalty for FY 2019-20. The challenge to Notification No. 56 of 2023-Central Tax was not pressed.

Observations of the Court.

Following its own decision in Kashvi Power Steel P. Ltd., and having regard to the waterfall in Section 53 of the Code under which operational creditors falling within the residual category of remaining debts and dues cannot claim priority over the preceding categories, the Court found no reason to take a divergent view.

It observed that promotion of corporate revival is the avowed object of the Insolvency and Bankruptcy Code, 2016, and that a buyer of a corporate debtor as a going concern should, in cases such as the one at hand, not be saddled with past dues. The proceeding for FY 2019-20 initiated by the CGST authorities, which culminated in the impugned order, could not have been initiated at all.

Final verdict.

The order in original dated 31.08.2024 was quashed and the writ petition was disposed of.

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