Srei Equipment Finance Ltd. v. Assistant Commissioner, DIV-III, CGST & C-EX, Navi Mumbai & Ors.

Continuation of CGST demand proceedings against a corporate debtor for a period prior to approval of its resolution plan under the Insolvency and Bankruptcy Code, 2016. At issue: whether statutory dues not forming part of an approved Resolution Plan stand

Date of Order:	October 16, 2025
Case Law No:	GIB-BHC-2025-63
Source:	GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background.

The matter pertained to CGST dues for the assessment year 2020-21. The RBI initiated the Corporate Insolvency Resolution Process against the Petitioner under the IBC on 8 October 2021, and the resolution order was made on 11 August 2023. There was nothing on record to show that the Respondent authorities, who later made the impugned order and raised the impugned demands, had intervened in the CIRP or sought any reliefs therein. Ignoring the resolution order, a show-cause notice dated 27 November 2024 was issued to the Petitioner. The Petitioner replied and objected to any demand being raised, relying on *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd.* [(2021) 91 GSTR 28 (SC)] and *Vaibhav Goel v. DCIT* [Civil Appeal No. 49 of 2022, decided 20 March 2025]. Despite the objections, the impugned order dated 25 February 2025 came to be passed, giving rise to the Petition. The Respondents, though instructions were wanting, contended that the impugned order was correctly made and that the Petitioner had an alternate and efficacious remedy of appeal.

Observations of the Court.

The Court observed that ordinarily it would have sustained the objection of alternate remedy, but declined to do so since the legal position stood fairly settled by the two decisions relied upon, which bound the Respondents and which they ought to have followed by discharging the show-cause notice. Reference was made to *JSW Steel Limited v. Pratishtha Thakur Haritwal & Ors.* [CP (C) No. 629 of 2023 in WP (C) No. 1177 of 2020], where the Supreme Court held that continuation of proceedings by the authorities even after *Ghanashyam Mishra* was specifically brought to their notice was contemptuous in nature, the authorities there being given the benefit of doubt only because the matter was among the first arising out of that judgment.

Following *Ghanashyam Mishra* and *M/s Monet Ispat and Energy Ltd. & Anr. v. State of Odisha & Anr.* [WP (C) 1177 of 2020], the Court reiterated that once a Resolution Plan is duly approved by the adjudicating authority, the claims provided in the Plan stand frozen and bind the corporate debtor and all those claiming through it; all claims not forming part of the Plan stand extinguished on the date of approval, and no person is entitled to continue any proceeding in respect of such a claim. All dues, including statutory dues owed to the Central Government, any State Government or any local authority, if not part of the Resolution Plan, stand extinguished, and no proceedings in respect of such dues for the period prior to approval under Section 31 of the IBC can be continued. The Court also noted the holding that the 2019 amendment to Section 31 is clarificatory and declaratory, effective from the date the Code came into force, and that the respondents there were not entitled to recover any claims or debts from the corporate debtor accruing prior to the transfer date.

Final verdict.

Given the clear pronouncement of the Supreme Court, the Respondents were not justified in issuing the show-cause notice dated 27 November 2024 or in disposing of it by the impugned order. The proceedings post 11 August 2023 were in the teeth of the law laid down by the Supreme Court and were held to be wholly without jurisdiction. The impugned order dated 25 February 2025 was quashed and set aside, and the Rule was made absolute in those terms, without any order as to costs.