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

WRIT PETITION (L) NO.36803 OF 2025

Aarem Insights Pvt. Ltd.
(Formerly known as Shop CJ Network Pvt Ltd),
Office No.67B, Gopal Mansion B2,
Gurunanak Marg, Opposite Kooper Chimani,
Bandra West, Mumbai 400050 … Petitioner

Versus

1. Joint Commissioner of State Tax (Appeals)-VII,
   4th Floor, 'B' Wing, Suburban State GST Bhavan,
   Bandra-Kurla Complex, Bandra East,
   Mumbai – 400 051.
2. Joint Commissioner of State Tax,
   MUM-NOD-F-0003, Nodal Division-3,
   4th Floor, H Wing, GST Bhavan,
   Mazgaon, Mumbai 400 010
3. Deputy Commissioner of State Tax,
   MUM-NOD-E-0301, Nodal Division-3,
   Old (Mum-VAT-E-611, LUT-4),
   4th Floor, Vikrikar Bhavan,
   Mazgaon, Mumbai 400 010
4. State of Maharashtra,
   through the Government Pleader,
   Bombay High Court (OS),
   Mumbai 400 001 …. Respondents

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Adv. Pulkit Devpura a/w Adv. Rajat Bhardwaj, for the petitioner.
Mr. Vikrant Parshurami, AGP, for the respondent-State.

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**CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.**

DATE : 7th SEPTEMBER 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. The present writ petition pertains to an Assessment Order for the Assessment Year 2016-2017 dated 26th February 2021, confirming a tax liability against the petitioner (then Shop CJ Network Pvt. Ltd.).

2. The challenge in this writ petition filed under Article 226 of the Constitution of India is to the Appeal Order dated 31st May 2023 passed by the respondent No.1 - Joint Commissioner of State Tax (Appeals)-VII, Bandra, Mumbai confirming the assessment order passed by the Assessing Officer.

3. The brief facts of the case are as under :-

The petitioner was formerly known as Shop CJ Network Pvt. Ltd. which operated a 24x7 home-shopping television channel under the brand name "Shop CJ". The petitioner (as Shop CJ Network Pvt. Ltd.) was subject to assessment proceedings under the provisions of the Maharashtra Value Added Tax Act, 2002 ("MVAT Act", for short) and the said proceedings culminated in an assessment order passed under Section 23(2) of the MVAT Act.

Aggrieved by the above assessment order, the petitioner filed an appeal.

4. The petitioner paid the pre-deposit in terms of Section 26(6A)(c) of the MVAT Act for filing of appeal. The petitioner (in its erstwhile identity as Shop CJ Network Pvt. Ltd.) was subject to CIRP proceedings under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC", for short) vide order dated 19th January 2022 of the National Company Law Tribunal, Mumbai ("NCLT", for short).

5. The claims of respondent No.3 (MVAT Department) in respect of Assessment Years 2011-2012 to 2016-2017 were duly considered in the Resolution Plan dated 15th September 2022. The said Resolution Plan was approved vide NCLT order dated 21st March 2023 on a "clean slate" basis, thereby binding all stakeholders to its terms and extinguishing all claims or liabilities of the petitioner based on the decision of the Hon'ble Supreme Court in **Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and ors.**[1]. The

1(2021) 9 SCC 657

order dated 21st March 2023 was rectified by NCLT vide order dated 18th April 2023 clarifying that the approved Resolution Plan included payment of Rs.1,00,00,000/- on a proportionate basis in full satisfaction of all disputed government dues (including VAT claims). An amount of Rs.58,58,444/- was paid by way of challan to respondent No.3 (Office of Department of GST, Government of Maharashtra, Commissioner of State Tax-E-611-Mumbai) against the full and final settlement towards Rs.27,91,64,187/-.

6. The petitioner filed a letter dated 19th May 2023 with the respondent No.1 - the First Appellate Authority informing the authority of the NCLT's approval of the Resolution Plan and that the pending MVAT appeals be disposed of on the basis that all tax liabilities had been settled under the Plan and requesting refund of pre-deposit.

7. The National Company Law Appellate Tribunal ("NCLAT", for short) dismissed the appeal of respondent No.3 against the NCLT's rectification order by its order dated 26th July 2023, thereby affirming the NCLT's orders. The respondent No.1

passed the impugned order in appeal on 31st May 2023 dismissing the petitioner's appeal for the relevant Assessment Year and directing the recovery of the assessed tax.

8. The petitioner filed a letter dated 22nd August 2025 and 23rd September 2025 with respondent Nos.2 and 3 requesting refund of the statutory pre-deposit paid for the appeal, on the ground that the Resolution Plan has extinguished the tax liability. No response was received. Hence, this writ petition was filed.

9. We have heard learned counsel for the petitioner. We have also heard learned AGP for the respondent - Department, who opposed the writ petition. We have perused the materials on record and the impugned order. The impugned order passed by the First Appellate Authority reads thus :-

> "This first appeal is filed on 04.05.2021 by M/s. SHOP CJ NETWORK PRIVATE Ltd. (hereinafter referred to as "Appellant") holder of TIN-27985217718V against the Assessment Order dated 26.02.2021 passed by the Deputy Commissioner of Sales Tax (E-611) Large Taxpayers Unit-04, Mumbai under The Maharashtra Value Added Tax Act, 2002 (hereinafter referred to as "MVAT Act") for the period from 01.04.2016 to 31.03.2017 by raising demand of Rs.6,20,63,981/-.
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> Being aggrieved by the assessment order, the appellant has preferred this appeal along with application

for stay and Final stay was granted vide order No. CST-APP-F-004/SHOP CJ NETWORK PRIVATE LIMITED/27985217718V/MVAT/01.04.2016-31.03.2017/906246/FINAL STAY/3831159 dated 17.06.2021 against the part payment of Rs.31,99,174/- which was made on 22.04.2021 at State Bank of India.

The appellant filed this appeal on the following grounds:-

Grounds of Appeal in brief :-

(1) The Deputy Commissioner of state tax E-611 has not assessed correctly turnover of the appellant.

(2) The order passed by the learned assessing authority levying interest of Rs.3,00,72,238/-under section 30 may be set aside.

Hearing, Observations and Conclusion:-

To decide this appeal, hearing notice was issued and served properly on the Appellant and he was called on 30.05.2023. On 22nd May 2023 appellants Insolvency professional replied vide his letter dated 19.05.2023 and stated that a resolution plan in respect of the company (i.e. appellant) has been approved by the Hon'ble NCLT vide order dated 21.03.2023. Insolvency professional has also submitted a copy of judgment dated 21.03.2023 issued by NCLT Mumbai Bench and communicated the fact of dues settle by the NCLT in the favor of GST Department i.e. Deputy Commissioner of State Tax E-611 Large Taxpayers Unit-04 Mumbai.

Considering above fact case is closed for an order without allowing any grounds of the appellant.

Hence, the following order is passed.

ORDER

Appeal petition No.VAT-31/2021-22 is disposed of by considering above facts as discussed in text of appeal order. Hence, the assessment order Passed by assessing authority is hereby confirmed. After considering part payment of Rs.31,99,174/- made in appeal, the appellant

> is in still arrears of Rs.5,88,64,807/-. The Assessing is directed to take necessary action in this regard at your end."

10. In our view, the issue involved in the present writ petition is squarely covered by the decision of the Hon'ble Supreme Court in *Ghanashyam Mishra and Sons Private Limited* (supra). We also find that the issue is squarely covered by the decision of this Court in **Srei Equipment Finance Ltd. vs. Assistant Commissioner, DIV-III CGST & C-EX, Navi Mumbai & Ors.**[2], wherein this Court quashed similar proceedings initiated after approval of a Resolution Plan.

11. We have perused the proposed Resolution Plan, the order dated 21st March 2023 passed by the NCLT and the rectification order dated 18th April 2023 of the NCLT. Having perused the decision of the Hon'ble Supreme Court in *Ghanashyam Mishra and Sons Private Limited* (supra), in our view, in the present case, once the NCLT approved the Resolution Plan on a "clean slate" basis, all past claims or dues not forming part of the Resolution stood extinguished. In terms of Section 31 of the IBC,

2Writ Petition No.2220 of 2025 decided on 16/10/2025.

such approval is binding on all Stakeholders, including the tax authority, and no fresh or pending proceedings could be continued thereafter. Consequently, respondent No.1 lacks jurisdiction to pass the impugned order directing recovery of tax dues, as such action is directly in the teeth of the binding scheme of the IBC.

12. As per Section 31 of the IBC, if the NCLT is satisfied that the Committee of Creditors ("CoC", for short) have met the requirements of law while arriving at a draft resolution plan, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed. Elucidating the objective of Section 31(1) of IBC, it was held in the case of **Essar Steel India Limited Vs Satish Kumar Gupta**[3], that it meant to ensure that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate. It was also specifically held that the resolution applicant cannot

3(2020) 8 SCC 531

suddenly be faced with ‘undecided’ claims after the resolution plan submitted by him is approved by NCLT as it would lead to uncertainties in how much amount would be payable by the resolution applicant.

13. Further, as briefly indicated earlier, the Hon'ble Supreme Court in *Ghanashyam Mishra and Sons Private Limited* (supra) held that once a resolution plan is duly approved by the NCLT under Section 31(1) of IBC, 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 stake holders. On the date of approval of the resolution plan (or, as the case may be, the Acquisition Plan) by the NCLT, all such claims, which are not a part of such plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim, which is not part of the said plan. Further, 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 NCLT grants its approval under Section 31 of IBC could be continued.

14. Relevant is a decision of this Court, in **Murli Industries Ltd vs. Assistant Commissioner of Income Tax**[4], wherein it held that the aim and object of IBC is to revive the Corporate Debtor by putting quietus to the claims against it. Providing certainty to the resolution applicant of 'no' claims in future against the Corporate Debtor appears to be the essence of the resolution. A similar ratio was laid down even in the following cases:

i. **Uttam Value Steels Ltd vs. Assistant Commissioner of Income Tax**[5].

ii. **Principal Commissioner of Income Tax vs. Patanjali Foods Ltd.**[6]

15. The Hon'ble Supreme Court in **Ruchi Soya Industries Limited and others vs. Union of India and others**[7] held that on the date on which the resolution is approved by the NCLT, all claims

4(2022) 441 ITR 8 (Bom)
52024 (9) TMI 426 (Bom)
62024 (5) TMI 57 (Bom)
72022 (380) ELT 8 (SC)

stand frozen, and no claim, which is not a part of the resolution, would survive.

16. The statutory pre-deposits made under Section 26(6A)(c) of the MVAT Act for filing appeals, being 10% of the disputed tax, formed part of the overall tax demands which are now extinguished by the Resolution Plan. Since the NCLT approved plan allocated a fixed sum to the tax department in full settlement of its dues, retention of such pre-deposits over and above the approved amount would be impermissible and contrary to law. Since the NCLT has approved the Resolution Plan on a clean slate basis, all proceedings against the petitioner stand abated and consequently, the respondents are liable to refund the said pre-deposit amounts. The issue is no more *res integra* and is covered by the decision of the Hon'ble Supreme Court in *Ruchi Soya Industries Limited and others* (supra) and the judgment of this Court in **Dalmia Cement (Bharat) Ltd. and another vs. Union of India and others**[8], wherein this Court set aside the impugned order and directed refund of the amount of pre-deposit with applicable

8(2023) 10 Centax 190(Bom.)

interest.

17. Though learned AGP was at pains to point out that the authority had the necessary jurisdiction to pass the impugned order and that the claim of MVAT Department would not be covered by the Resolution Plan, we are of the considered view that having regard to the aforesaid reasons, the said submission can only be stated to be rejected. Consequently, the writ petition is allowed in terms of prayer clauses (a) and (b) which read thus :-

> "(a) This Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari, or any other appropriate Writ, Order or directions and call for records and proceedings of the Impugned Appeal Order JC/APP-IV/MVAT-31/2021-22/A.O.2023-24/B-387 dated 31.05.2023 (annexed in Exhibit A) and after going through the legality, validity and proprietary of the aforesaid Impugned Order, be pleased to set aside the said Impugned Order and all proceedings pursuant thereto;
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> (b) This Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus, or any other appropriate Writ, Order directing Respondent No. 2 to refund a total amount of Rs.31,99,174/- along with applicable interest paid by the Petitioner vide the challan, enclosed at Exhibit D respectively."

18. The writ petition is disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**