IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 447-448 OF 2013

M/S. RUCHI SOYA INDUSTRIES LTD. .....APPELLANT(S)

Vs.

UNION OF INDIA & ORS. .....RESPONDENT(S)

O R D E R

These appeals challenge the judgment and order dated 20th January, 2012 passed by the Division Bench of the High Court of Karnataka in Writ Petition No. 25290 of 2002 (TAR) and Writ Petition No. 25291 of 2002 (TAR), thereby dismissing the writ petitions filed by present appellant.

The writ petitions were basically filed with a prayer seeking issuance of mandamus directing that, the Notification No. 38 of 2002-Cus(N.T.) dated 13th June, 2002 was not applicable to the imported goods consisting of 1647.414 metric tonnes of crude palmolein covered under the Bill of Entry for Home Consumption dated 12th June, 2002.

The aforesaid writ petitions were rejected. Being aggrieved,

the present appeals are filed.

The appellant has filed the I.A. No. 85939 of 2021 for pointing out the subsequent developments and the disposal of the appeal in terms thereof.

It is not in dispute that during the pendency of the present proceedings, the Standard Chartered Bank had filed proceedings before the National Company Law Tribunal, Mumbai (hereinafter referred to as the "NCLT") in respect of the present appellant under the provisions of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC").

The application of the Standard Chartered Bank under Section 7 of the IBC for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") came to be admitted by the learned Adjudicating Authority on 15th December, 2017.

After the procedure, as required under the various provisions of the IBC was completed, an application under Section 30 (6) of the IBC came to be filed by the Resolution Professional for the grant of approval of the Resolution Plan of the successful Resolution Applicant.

Vide order dated 24th July, 2019 read with order dated 04th September, 2019, the application of the Resolution Professional for the

grant of approval of the Resolution Plan of the successful Resolution Applicant came to be allowed. As such, the management of the appellant came to be vested in the successful Resolution Applicant.

The short point that is involved is as to whether the claim of the present respondent which was admittedly not lodged before the Resolution Professional after public notices were issued under Sections 13 and 15 of the IBC could be considered at this stage.

We have heard Mr. Parag P. Tripathi, learned Senior Counsel appearing for the appellant and Ms. Nisha Bagchi, learned counsel appearing for the respondent no. 2/Revenue.

Mr. Tripathi, learned Senior Counsel appearing for the appellant, has submitted that the present case is squarely covered by the law laid down by this Court in the case of ***Ghanashyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. & Ors.***[1]. He submits that as a matter of fact, the office of the respondent no. 2 at Mangalore itself had lodged a claim before the Resolution Professional in respect of one of their demands. However, so far as the demand, which is the subject matter of the present proceedings is concerned, no claim was lodged in respect thereof, and as such, in view of the law laid down by this Court while interpreting Section 31 of the IBC, the respondents are now not entitled to claim

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any amount, which is not a part of the Resolution Plan.

Ms. Bagchi, learned counsel appearing for the respondent no. 2/Revenue, on the contrary submits that no notice was issued to the Authority at Mangalore. She further submits that there was certain confusion as to whether the operational debt as defined under Section 5(21) of the IBC would cover the claim of the respondent no. 2/Revenue. It is, therefore, submitted that in view of said confusion, there is a possibility that the office of the respondent no.2 might not have lodged the claim with respect to the present proceedings.

We find that the present appeals are squarely covered by the law laid down by this Court in the case of ***Ghanashyam Mishra*** (supra). It will be relevant to refer to Paragraph 102 of the said judgment which reads as under:

> "102. In the result, we answer the questions framed by us as under:
>
> 102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, 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 stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in re-

spect to a claim, which is not part of the resolution plan.

102.2. The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.

102.3. Consequently 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 adjudicating authority grants its approval under Section 31 could be continued."

Admittedly, the claim in respect of the demand which is the subject matter of the present proceedings was not lodged by the respondent no. 2 after public announcements were issued under Sections 13 and 15 of the IBC. As such, on the date on which the Resolution Plan was approved by the learned NCLT, all claims stood frozen, and no claim, which is not a part of the Resolution Plan, would survive.

In that view of the matter, the appeals deserve to be allowed only on this ground. It is held that the claim of the respondent, which is not part of the Resolution Plan, does not survive. The amount deposited by the appellant at the time of admission of the appeals along with interest accrued thereon is directed to be refunded to the

appellant.

The appeals are allowed, accordingly. Pending I.A.(s), if any, shall stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(S. RAVINDRA BHAT)

New Delhi;
February 17, 2022.

ITEM NO.1 COURT NO.15 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal Nos. 447-448/2013

M/S. RUCHI SOYA INDUSTRIES LTD. Appellant(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(I.A. NO. 50632/2019 (APPLICATION FOR VACATING STAY), IA No. 85939/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 50632/2019 - VACATING STAY)

Date : 17-02-2022 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s) Mr. Parag P. Tripathi, Sr. Adv.
Mr. Rajesh Rawal, Adv.
Ms. Iti Sharma, Adv.
Mr. Simaranjeet Singh, Adv.
Ms. Rhea Dube, Adv.
Mr. Kunal Vaishnav, Adv.
Ms. Misnina, Adv.
Mr. Gautam Talushdev, Adv.
Mr. Anshay Dhatwalia, Adv.
Mr. Ashwani Kumar, AOR

For Respondent(s) Ms. Nisha Bagchi, Adv
Mr. Akshay Amritanshu, Adv.
Ms. Meenakshi Grover, Adv.
Mr. R.K. Verma, Adv.
Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of signed order.

Pending I.A.(s), if any, shall stand disposed of.

(NEETA SAPRA) **(VIRENDER SINGH)**
COURT MASTER (SH) **BRANCH OFFICER**
(Signed order is placed on the file)