

**IN THE HIGH COURT OF HIMACHAL PRADESH**  
**AT SHIMLA**

**CWP No.422 of 2024**  
**Reserved on:14.08.2024**  
**Pronounced on:21.08.2024**

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Su-Kam Power System Ltd. & Another .....Petitioners

Versus

State of Himachal Pradesh & Others ...Respondents

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**Coram:**

**Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice.**  
**Hon'ble Mr. Justice Satyen Vaidya, Judge.**

Whether approved for reporting?

For the petitioners : Mr. Aalok Jagga and Mr. Vedhant Ranta,  
Advocates.

For the respondents : Mr. Anup Rattan, Advocate General with  
Mr. Rakesh Dhaulta, Additional  
Advocate General.

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**M.S. Ramachandra Rao, Chief Justice.**

The 1<sup>st</sup> petitioner is a Company incorporated on 14.10.1998 under the Companies Act, 1956.

2. The 2<sup>nd</sup> petitioner is a resident of State of Haryana and is a citizen of India.

3. The issue in the Writ petition is with regard to certain read entries/charge over the properties of petitioner no.1 on account of dues recoverable from the erstwhile Management of the 1<sup>st</sup> petitioner-

Company under the Himachal Pradesh Value Added Tax Act, 2005 (in short **“the HP Vat Act”**), the Central Sales Tax Act, 1956 (in short **“the CST Act”**) and Himachal Pradesh Goods and Services Tax Act, 2017 (in short **“the HPGST Act”**), vide **Annexure P-6**.

4. The 1<sup>st</sup> petitioner-Company was engaged in the business of manufacturing and trading of Inverters & Batteries and has its factory premises in the Industrial Area, Katha Baddi, District Solan, Himachal Pradesh.

5. For running its operations, it had availed various facilities from financial creditors and also with the State Bank of India.

6. On account of default in adherence to the financial discipline by the erstwhile management of the Company, the State Bank of India had initiated Corporate Insolvency Resolution Process (in short **“the CIRP”**) of the petitioner-Company by filing C.P. no.(IB)-540(PB)/2017 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short **“the IBC or Code”**) before the National Company Law Tribunal (for short **“the NCLT”**) at New Delhi, Principal Bench, where the registered office of the 1<sup>st</sup> petitioner-Company was situated.

7. The said petition came to be admitted on 05.04.2018 and a Resolution Professional was appointed replacing the earlier management which stood suspended, and by operation of Section 14 of the IBC, 2016

a moratorium was imposed. **Annexure P-1** is the said order dt. 05.04.2018.

8. Pursuant to the initiation of the CIRP process, expressions of interest were invited from prospective resolution applicants, but to no avail.

9. Faced with the above, the Committee of Creditors resolved to initiate liquidation proceedings, and resultantly, the Resolution Professional filed an application under Section 33(1)(a) of the IBC, for liquidation of the 1<sup>st</sup> petitioner-Company.

10. Vide **Annexure P-2** dt. 03.04.2019, the same was allowed by the NCLT and the 1<sup>st</sup> petitioner-Company was ordered to be liquidated and Mr. Raj Kumar Ralhan was appointed as a Liquidator in terms of Section 34(1) of the IBC.

11. In Clause 18(e) of the said order, the Liquidator was directed to explore the possibility to continue the business of the 1<sup>st</sup> petitioner-Company/Corporate Debtor during the liquidation process and to sell its business as a going concern.

12. Thereafter, in terms of Section 38 of the Code, claims of creditors were called.

13. The Department of State Taxes & Excise, Government of Himachal Pradesh, filed **Annexure P-3** claim of Rs.354,11,34,131/- on

account of arrears of Value Added Tax, Central Sales Tax & Central Goods & Services Tax/HPGST with the Liquidator.

14. Thereafter, on 07.01.2020, the 2<sup>nd</sup> respondent wrote to the Deputy Director, District Industries Center (respondent no.4), informing that the above sum was due by the 1<sup>st</sup> petitioner-Company on account of arrears of VAT/CST & CGST/HPGST and requested to mark its charge/red entry of Government dues in land revenue record pertaining to the properties of the 1<sup>st</sup> petitioner-Company with a request for debarring the 1<sup>st</sup> petitioner-Company from sale/transfer of the said properties.

15. These properties were enumerated in Para-7 of the Writ petition.

16. On that basis, without issuing any notice or without hearing the Liquidator, legal proceedings were initiated by respondents no.3 & 4 and the properties in question were charged and marked with red entries bypassing the procedure laid down in the H.P. Land Revenue Act, 1954 and in violation of Principles of Natural Justice as well as Section 33(5) of the IBC.

17. Such proceedings in view of Section 238 of the Code, will have no effect as the Code will override anything inconsistent to it contained in any other law.

18. Be that as it may, the 2<sup>nd</sup> respondent's claim for the above amount was treated by the Liquidator under the Category of "Operational Creditors" and was duly admitted vide **Annexure P-5** under Section 40

of the Code for the claimed amount. This is in view of Section 5(20) & (21) of the Code, which define “*operational creditors*” and “*operational debt*”. The claim of the 2<sup>nd</sup> respondent is mentioned at serial no.733 of **Annexure P-5**.

19. In the meantime, the Liquidator issued a Public Notice dt. 04.05.2020 and an Addendum on 25.06.2020, inviting bids from prospective applicants willing to take over the 1<sup>st</sup> petitioner-Company as a going concern. This is consistent with Regulation 32(e) and Regulation 32-A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 (for short ‘**the Liquidation Regulations, 2016**’) which permit the Liquidator to sell the corporate debtor as a going concern.

20. Expressions of interest were received from interested parties including by petitioner no.2 for taking over of the 1<sup>st</sup> petitioner-Company as a going concern.

21. The present management of the Company participated in the e-auction process and was the highest successful bidder with bid value of Rs.49.95 crore and submitted **Annexure P-5A**, acquisition plan for taking over the 1<sup>st</sup> petitioner-Company as a going concern.

In the acquisition plan, it was proposed by the 2<sup>nd</sup> petitioner and the current management that “*Upon the distribution of the proceeds in terms of Section 53 of the IBC, the liability of the Corporate Debtor*”

*towards the dues owed to Operational Creditors/statutory dues shall stand settled in full, including any claims whether filed or not, whether admitted or not, whether asserted or not and whether or not set out in the audited balance sheet or the list of creditors.”*

22. Thus, the plan submitted by the current management envisaged no further claims by any operational creditor including respondents no.2 to 4 in the event its plan for taking over the 1<sup>st</sup> petitioner-Company as a going concern is approved by the NCLT.

23. On 11.05.2022, the NCLT approved the same vide order **Annexure P-6** and declared that the e-auction conducted on 12.10.2020 & 14.10.2020 and the letter of intent issued in favour of the current management on 16.10.2020 stands confirmed and the sale of the Corporate Debtor as a going concern in favour of respondents no.1 to 4 therein, stands confirmed.

24. The entire sale consideration of Rs.49.95 crore had been deposited with the Liquidator, which led to the issuance of Certificate of Sale dt. 31.05.2022, **Annexure P-7**, and the 1<sup>st</sup> petitioner-Company was sold to the current management as a going concern in terms of the acquisition plan and the plan approval order.

25. There was also no objection from respondents no.1 & 2 throughout the process of liquidation including upto and after the stage of approval of the acquisition plan placed by the 2<sup>nd</sup> petitioner and the

current management before the NCLT. If they had any objection, they ought to have filed such objections since they were stakeholders entitled to distribution of proceeds under Section 53 as per Regulation 2(k) of the Liquidation Regulations of 2016.

26. By not only not objecting to the acquisition plan, the respondents no.1 and did not even challenge the order dt. 11.05.2022 passed by the NCLT, approving the acquisition plan of petitioner no.1 by petitioner no.2. Thus, they have acquiesced in the whole process without demur and are bound by the said decision of the NCLT.

27. We may point out that the order dt. 11.05.2022 passed by the NCLT, approving the acquisition plan, was challenged by an ex-promoter of the 1<sup>st</sup> petitioner-Company before the National Company Law Appellate Tribunal, New Delhi (in short “**the NCLAT**”), under Section 61 of the IBC vide Company Appeal (AT) Insolvency no.673 of 2022. However, the same was dismissed on 03.02.2023 (**Annexure P-8**).

28. The said ex-promoter further challenged the same before the Supreme Court by filing a statutory appeal under Section 62 IBC, which was also dismissed on 07.08.2023 (**Annexure P-9**).

29. In view of the said events, the acquisition plan of the petitioner became a binding document in rem and is the final document having force of law.

30. Subsequently, even the liquidation process was closed on 02.11.2022 by the NCLT, New Delhi, vide **Annexure P-10**.

31. In view of all these events, the claims of respondents no.1 & 2 are deemed to be settled in terms of the manner of distribution of sale proceeds as per Section 53 of IBC, and by operation of law, they are not left with any claim against petitioner no.1/Company with its new management.

32. In spite of this settled legal position and in spite of the 1<sup>st</sup> petitioner-Company writing letters on 06.06.2022 (**Annexure P-11**) and on 17.11.2022 (**Annexure P-12**) to respondent no.3 for taking note of the order dt. 11.05.2022 of the NCLT approving the acquisition plan and pointing out that their claim is extinguished by operation of law, the entries made on the properties of the 1<sup>st</sup> petitioner-Company in question were not removed. Reminder e-mails sent vide **Annexure P-12A** on 10.02.2023, 04.03.2023 & 19.03.2023, also did not yield any result.

33. Therefore the petitioners filed this Writ Petition.

**Contentions of petitioners**

34. Petitioners contend that after approval of acquisition plan, it became binding on all including respondents and any act contrary to the approved plan would be illegal, particularly, when none of the respondents had challenged the acquisition plan which had also been approved by the NCLT.



35. The 1<sup>st</sup> petitioner-Company contends that in order to revive the said Company, it is required to infuse sizeable capital in the shape of secured loan into the Company to meet working and capital expenses, for which, it had already been sanctioned a secured loan of Rs.90 crore from HDFC Bank vide **Annexure P-15A**. To secure the said loan, the assets of the 1<sup>st</sup> petitioner-Company have to be mortgaged, for which, firstly permission to mortgage is required, and secondly the red entry/charge of respondents no.1 & 2 has to be removed.

36. The petitioner sought permission to mortgage from respondent no.3 in order to mortgage the assets of the petitioner-Company in favour of the HDFC Bank, Panchkula, vide **Annexure P-16** dt. 05.07.2023, **Annexure P-17** dt. 28.07.2023 and also **Annexure P-18** dt. 10.02.2023.

37. Petitioner-Company contends that this causes a great impediment to running its operations and there are 900 workers whose livelihoods are at stake, and the action of the respondents in not deleting the red entries is contrary to the provisions of the IBC.

38. It is contended that the claim of respondent no.4 stood adjudicated and was reduced to zero in view of the Circulars dt. 23.03.2020 & 27.12.2020 issued by the GST Department of the Central Board of Taxes & Customs, Ministry of Finance, whereby, the authorities had been restrained from taking coercive steps against the property of companies in respect of pre-insolvency dues.

39. It is contended that all the claims of the respondents have stood extinguished qua the properties of the Company, and even the red entry made pursuant to the letter dt. 07.01.2020 is void, since it was made during the period of moratorium which commenced on the passing of the admission order dt. 05.04.2018 by the NCLT under Section 7 IBC.

40 It is contended that the claim of respondent no.2 was duly dealt with under liquidation, and the balance amount, if any, stood extinguished and no right survived with the respondents to keep their charge/red entries over the properties in question.

41. Therefore, the following reliefs have been prayed in the Writ petition:-

- “i. Issue an appropriate writ, order or direction in the nature of certiorari, quashing the letter/communication dated 07.01.2020 (Annexure P-4), issued by Respondent No.2, vide which the red entries/charge on account of dues recoverable from erstwhile management of Petitioner Company under Himachal Pradesh Goods and Service Tax Act, 2017 has been created over the properties of Petitioner No.1 Company in an illegal and arbitrary manner, in view of the order dated 11.05.2022 (Annexure P-6) passed by National Company Law Tribunal, New Delhi approving acquisition plan of the Petitioner Company as “Going Concern” in view of the principle of “Clean Slate” as laid down by the Hon’ble Supreme Court in **Ghanshyam Mishra and sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Limited (SC) 2021 (9) SCC 657.***
- ii. It is still further prayed that this Hon’ble Court may be pleased to issue a writ or order or direction in the nature of mandamus, directing Respondent No.4, to remove its charge/red entries/claim*

*pertaining to Himachal Pradesh Goods and Services Tax Act, 2017 over the properties of the petitioner company mentioned at paragraph No.7 from the revenue record.*

- iii. *It is still further prayed that this Hon'ble Court may be pleased to issue any other appropriate writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.*
- iv. *Dispense with advance notice and filing of certified copies of aforesaid Annexures and allow/permit the filing of true typed/small font/photocopies/narrow margined/illegible copies of the aforesaid Annexures."*

42. Counsel for the petitioners placed reliance on the judgment of the Supreme Court in ***Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asst Reconstruction Company Limited***<sup>1</sup>. Paras 64 to 69, 77, 86, 91 & 94 of the said judgment mentioned in Para-V to the Writ petition and also the last relevant portion of said Para-V, state as under:-

*"64. As held by this Court in the case of Pr. Commissioner of Income Tax vs. Monnet Ispat and Energy Ltd., SLP(C) No.6483/2018 (order dated 10.8.2018, in view of provisions of Section 238 of I&B Code, the provisions thereof will have an overriding effect, if there is any inconsistency with any of the provisions of the law for the time being in force or any instrument having effect by virtue of any such law. As such, the observations made by NCLAT to the aforesaid effect, if permitted to remain, would frustrate the very purpose for which the I&B Code is enacted.*

*65. However, in Civil Appeal arising out of Special Leave Petition (Civil) No.11232 of 2020, Writ Petition (Civil) No.1177 of 2020 and Civil Appeals arising out of Special Leave Petition (Civil) Nos. 7147-*

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<sup>1</sup> (2021) 9 SCC 657

7150 of 2020, the issue with regard to the statutory claims of the State Government and the Central Government in respect of the period prior to the approval of resolution plan by NCLT, will have to be considered.

66. *Vide Section 7 of Act No.26 of 2019 (vide S.O. 2953(E), dated 16.8.2019 w.e.f. 16.8.2019), the following words have been inserted in Section 31 of the I&B Code.*

*“including the Central Government, any State Government or any local authority 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”*

67. *As such, with respect to the proceedings, which arise after 16.8.2019, there will be no difficulty. After the amendment, any debt in respect of the payment of dues arising under any law for the time being in force including the ones owed to the Central Government, any State Government or any local authority, which does not form a part of the approved resolution plan, shall stand extinguished.*

68. *The only question, which remains is, what happens to such dues if they pertain to a period wherein Section 7 petitions have been admitted prior to 16.8.2019.*

69. *To answer the said question, we will have to consider, as to whether the said amendment is clarificatory/declaratory in nature or a substantive one. If it is held, that it is declaratory or clarificatory in nature, it will have to be held, that such an amendment is retrospective in nature and exists on the statute book since inception. However, if the answer is otherwise, the amendment will have to be held to be prospective in nature, having force from the date on which the amendment is effected in the statute.*

70 to 76.        xxx                    xxx                    xxx

77. It is clear, that the mischief, which was noticed prior to amendment of Section 31 of I&B Code was, that though the legislative intent was to extinguish all such debts owed to the Central Government, any State Government or any local authority, including the tax authorities once an approval was granted to the resolution plan by NCLT; on account of there being some ambiguity, the State/Central Government authorities continued with the proceedings in respect of the debts owed to them. In order to remedy the said mischief, the legislature thought it appropriate to clarify the position, that once such a resolution plan was approved by the Adjudicating Authority, all such claims/dues owed to the State/Central Government or any local authority including tax authorities, which were not part of the resolution plan shall stand extinguished.

78 to 85.        xxx                    xxx                    xxx

86. As discussed hereinabove, one of the principal objects of I&B Code is, providing for revival of the Corporate Debtor and to make it a going concern. I&B Code is a complete Code in itself. Upon admission of petition under Section 7, there are various important duties and functions entrusted to RP and CoC. RP is required to issue a publication inviting claims from all the stakeholders. He is required to collate the said information and submit necessary details in the information memorandum. The resolution applicants submit their plans on the basis of the details provided in the information memorandum. The resolution plans undergo deep scrutiny by RP as well as CoC. In the negotiations that may be held between CoC and the resolution applicant, various modifications may be made so as to ensure, that while paying part of the dues of financial creditors as well as operational creditors and other stakeholders, the Corporate Debtor is revived and is made an on-going concern. After CoC approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in sub-section (2) of Section 30 of the I&B Code.

*Only thereafter, the Adjudicating Authority can grant its approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*

87 to 90.        xxx                    xxx                    xxx

*91. It is a cardinal principle of law, that a statute has to be read as a whole. Harmonious construction of sub-section (10) of Section 3 of the I&B Code read with sub-sections (20) and (21) of Section 5 thereof would reveal, that even a claim in respect of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority would come within the ambit of 'operational debt'. The Central Government, any State Government or any local authority to whom an operational debt is owed would come within the ambit of 'operational creditor' as defined under sub-section (20) of Section 5 of the I&B Code. Consequently, a person to whom a debt is owed would be covered by the definition of 'creditor' as defined under sub-section (10) of Section 3 of the I&B Code. As such, even without the 2019 amendment, the Central Government, any State Government or any local authority to whom a debt is owed, including the statutory dues, would be covered by the term 'creditor' and in any case, by the term 'other stakeholders' as provided in sub-section (1) of Section 31 of the I&B Code.*

92 to 93.        xxx                    xxx                    xxx

*94. Therefore, in our considered view, the aforesaid provisions leave no manner of doubt to hold, that the 2019 amendment is declaratory*

*and clarificatory in nature. We also hold, that even if 2019 amendment was not effected, still in light of the view taken by us, the Central Government, any State Government or any local authority would be bound by the resolution plan, once it is approved by the Adjudicating Authority (i.e. NCLT).”*

*“The principle of taking over Corporate Debtor under a Resolution Plan will ipso facto apply to taking over by way of Acquisition Plan because in both cases the principles remain the same. In the former the claims of creditors are collated by Resolution Professional and dealt with in resolution Plan which becomes binding on approval of the same by CoC and then by NCLT. Similarly, in Liquidation process claims of creditors are settled by Liquidator on approval of the sale process in terms of Section 53 of IBC in the event of sale of assets of the Company or Sale of entire Company as a going concern. In both eventualities the Corporate Entity remains intact and only the management changes”*

*That reliance is placed upon “**Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors.**” Writ Petition(Civil) No.99 of 2018”, the Hon’ble Supreme Court while dealing with the different provisions of the “I&B Code’, including Section 5(20), observed as follows:-*

*“23. A perusal of the definition of “financial creditor” and “financial debt” makes it clear that a financial debt is a debt together with interest, if any, which is disbursed against the consideration for time value of money. It may further be money that is borrowed or raised in any of the manner prescribed in Section 5(8) or otherwise, as Section 5(8) is an inclusive definition. On the other hand, an ‘operational debt’ would include a claim in respect of the provision of goods or services, including employment, or a debt in respect of payment of goods or services, including employment, or a debt in respect of payment of dues arising under any law and payable to the Government or any local authority.”*

43. It is also contended that in view of Section 238 of the IBC, the provisions of the IBC override the provisions of the HPGST Act, 2017 and also the provisions of the VAT Act and the CST Act, and that respondent no.4 is liable to issue “NOC” to the petitioners and the respondents are bound to delete the red entry/charge of the property.

**The stand of the respondents**

44. Reply has been filed by the respondents refuting the said contentions.

45. While not disputing the events mentioned by the petitioners leading to the approval of the takeover acquisition plan of the 1<sup>st</sup> petitioner-Company by the current management and also not denying that the proceedings of the NCLT approving the approval plan submitted by the current management, got confirmed upto the Supreme Court, it is, however, pleaded that the State Debts have priority over rights of secured creditors.

46. Reliance is placed on the judgments in *Central Bank of India vs. State of Kerala & Ors.*<sup>2</sup>, to contend that there is priority of State Debt over Debts of other Secured Creditors.

47. It is contended that the dues claimed by the respondents had legitimately accrued against the 1<sup>st</sup> petitioner-Company in accordance

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<sup>2</sup> (2009) 4 SCC 94



with the provisions of the H.P. Vat Act, 2005 & CST Act, 1956, and the respondents are well within jurisdiction to create charge on properties of defaulting dealer to safeguard the Government revenue.

48. It is insisted that the respondents have first charge over the properties of the 1<sup>st</sup> petitioner-Company and so the Writ petition is devoid of merits.

**Consideration by the Court**

49. We have considered the submissions of the learned counsel for the petitioners and the learned Advocate General for the respondents, who adopted the submissions in the replies.

50. From the submissions of the parties, it is clear that the 1<sup>st</sup> petitioner-Company, who was unable to pay its dues to Financial Creditors, was made subject to a Corporate Insolvency Resolution Process by one of its Creditors , i.e., the State Bank of India under Section 7 of the IBC and it was admitted on 05.04.2018 vide **Annexure P-1.**

51. Under the said order, moratorium was imposed by the NCLT prohibiting any action/proceedings against the Corporate Debtor or enforcing any security interest created by the Corporate Debtor in respect of its property.

52. As per sub-Section (4) of Section 14 of the Code, the said order of moratorium would have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process.

53. Since the provisions of the said Code had overriding effect on all laws in view of Section 238 of the Code, it was not permissible for the respondents to create a charge on the property of the petitioner-Company during the currency of the moratorium vide **Annexure P-4** dt. 07.01.2020 in violation of the provisions of the IBC. Therefore, *ex facie*, the said order **Annexure P-4** is void in law.

54. This is also because under Section 33(5) of the Code, after the 1<sup>st</sup> petitioner-Company was directed to be liquidated by the NCLT on 03.04.2019 under Section 33(5) of the Code, no legal proceeding could be instituted by or against the Corporate Debtor. This also renders the red entry/charge created on the property of the petitioner-Company on 07.01.2020 void in law.

55. Admittedly, the claim of respondent no.2 for Rs.354,11,34,131/- was treated by the Liquidator under the Category of Operational Creditor and was admitted under Section 40 of the Code, and in the Claim-sheet of List of Creditors, **Annexure P-5**, it is mentioned at serial no.733.

56. However, when the IBC permits Sale of Assets of a Company in Liquidation as a going concern under Regulation 32(e) & 32A of the

Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, and in such an e-auction conducted by the Liquidator, the current management made a plan for acquisition vide **Annexure P-5A** for Rs.49.95 crore and the same was approved by the NCLT on 11.05.2022 vide **Annexure P-6** and Sale Certificate was also issued vide **Annexure P-7** on 31.05.2022, all the claims of the respondents stood extinguished.

57. The respondents are also estopped from continuing the red entry/charge on the properties of the 1<sup>st</sup> petitioner-Company, since they had never objected to the acquisition plan submitted by the current management of the 1<sup>st</sup> petitioner-Company and that they had also not challenged the said order dt. 11.05.2022 (**Annexure P-6**) passed by the NCLT approving the acquisition plan for the 1<sup>st</sup> petitioner-Company.

58. Once the said order had been upheld by the NCLAT vide **Annexure P-8** dt. 03.02.2023 and by the Supreme Court on 07.08.2023, it is not permissible for the respondents to act, as if they still have a right over the properties of the petitioner-Company.

59. Thus, as held in the above decision of the Supreme Court in **Ghanashyam Mishra's** case (supra-1), the legislative intent was to extinguish all debts owed to the Central Government or any State Government or any Local Authority including the Tax Authorities, when once an approval was granted to Resolution Plan by the NCLT.

60. As per the amended Section 31 of the Code, the said principle of taking over Corporate Debtor under a Resolution Plan, will also apply to taking over by way of acquisition plan. This is referred to as the “*Clean Slate*” principle of IBC.

61. The plea of the respondents that the tax dues claimed by them will have priority as a “*Crown Debt*”, therefore, cannot be accepted, and their action in continuing the said red entry/charge on account of dues recoverable from erstwhile management of the 1<sup>st</sup> petitioner-Company under the H.P. Vat Act, 2005, HPGST Act, 2017 and the CST Act, 1956, would be clearly illegal & arbitrary.

62. Therefore, the Writ Petition is allowed and a Writ of Mandamus is issued directing the 4<sup>th</sup> respondent to remove its charge/red entries/claim for the tax dues of the erstwhile management of the 1<sup>st</sup> petitioner-Company on the properties of the said petitioner forthwith, from the revenue record. No costs.

63. Accordingly, pending miscellaneous application(s), if any, are also disposed off.

**(M.S. Ramachandra Rao)**  
**Chief Justice**

**(Satyen Vaidya)**  
**Judge**

**August 21, 2024**  
*(Yashwant)*