Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

EXCISE Appeal No. 11373 of 2016 - DB

(Arising out of OIO-SUR-EXCUS-002-COM-046-15-16 dated 25/02/2016 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-II)

C.C.E. & S.T.-Surat-ii **........Appellant**
New C.Ex Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat, Gujarat- 395001

VERSUS

Arcelor Mittal Nippon India Ltd **......Respondent**
Post : Hazira,
Surat, Gujarat

APPEARANCE:
Shri Tara Praksah, Deputy Commissioner (AR) for the Appellant
Shir Ramnath Prabhu, Advocate for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C L MAHAR

Final Order No.11320/2024

DATE OF HEARING/ DECISION: 15.02.2024

RAMESH NAIR

1. Shri Tara Prakash, Learned Deputy Commissioner (AR) appearing on behalf of the Revenue reiterates the grounds of appeal.

2. Shri Ramnath Prabhu, Learned Counsel appearing on behalf of the respondent submits that this appeal is liable to abetted in the light of NCLT order dated 08.03.2019, which was upheld by the Hon'ble Supreme Court vide judgement dated 15.11.2019. As per the approved resolution plan, it clearly provides that all claims including tax, interest, penalties, etc. related to the period prior to effective date i.e. 16.12.2019 of taking over the management and business by the resolution applicant stood extinguished. He submits in the present case the period of dispute involved is 2006-07 which is much before the cut of date, as prescribed in the NCLT order.

Therefore, the revenue's appeal is infructuous and cannot be allowed to be proceeded with.

3. We have carefully considered the submission made by both the sides and perused the records. We find that though as per the approved resolution plan by the NCLT (National Company Law Tribunal) in the order dated 08.03.2019 all the government dues related to the period prior to 16.12.2019 appears to be prima facie extinguished but this tribunal can not decide that whether dues related to this case is recoverable or not in the light of the NCLT order.

4. However, due to development approval of resolution plan it is the concerned Commissionerate who can take a call about the dues.

5. Accordingly, in view of the aforesaid circumstances, the Revenue's appeal cannot survive being infructuous. Hence, the same is dismissed as infructuous. The revenue is at liberty to come back to this Tribunal with an appropriate application for restoration of appeal, in case they feel that despite the above change of circumstances, appeal can be disposed on merit.

(Operative portion dictated in open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Raksha