CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 2

SERVICE TAX APPEAL NO. 12138 OF 2019
(ST/MISC/11551/2024)

(Arising out of OIA No. CCESA-SRT-APPEAL-PS-232-2019-20 Dated-25/07/2019 passed by Commissioner CGST & Central Excise-Daman)

ALOK INDUSTRIES LTD **Appellant**
Survey No. 374/2/2 Village Saily, Rakhodi Saily Road,
Silvassa, Daman-396230

vs.

COMMISSIONER OF CGST & CENTRAL EXCISE-CGST & CENTRAL EXCISE DAMAN **Respondent**
Customs and Service Tax, Daman, 5th Floor, GST Bhavan,
RCP Compound, Vapi, Valsad, Gujarat-396191

Appearance:
Shri Ramanath Prabhu, Advocate and Mrs. Dimple Gohil, Advocate for the Appellant
Smt Sunita Menon, Superintendent (AR) for the Respondent

CORAM:
HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

FINAL ORDER NO. 10601/2026

Date of Hearing : **23/07/2026**
Date of Decision : 31/08/2026

Dr. AJAYA KRISHNA VISHVESHA

I have heard the learned Counsel for the appellant Shri Ramanath Prabhu and the learned AR for the department.

1.1 The learned Counsel for the appellant submitted that the appellant is engaged in the manufacture of excisable goods viz. textile articles (ready-made garments). It had recovered an amount of Rs. 11,32,736/- from the employees towards notice pay recovery during the period from 2014-15 to 2017-18 up to June-2017, in respect of which a Service Tax liability of INR 1,58,198/- and penalty of INR 1,58,198/- was demanded and held recoverable.

1.2 Show Cause Notice dated 25.02.2019 was issued seeking to demand and recover the amount of Service Tax. The Show Cause Notice was adjudicated vide Order-in-Original dated 11.04.2019 confirming the demand along with interest and penalty. Being aggrieved, the appellant filed appeal before the Commissioner (Appeals) CGST & Central Excise, Surat. The Commissioner (Appeals) vide Order-in-Appeal dated 25.07.2019 upheld the demand confirmed by the said Order-in-Original and rejected the appeal. Being aggrieved, the appeal has been filed before this Tribunal.

2. The learned Counsel for the appellant submitted that in terms of Section 31(1) of the Insolvency and Bankruptcy Code-2016, the Resolution Plan dated 08.03.2019 has been accepted on 8th March, 2019. The Resolution Plan is binding on the Central Government to whom a debt in respect of payment of dues arising under any law for the time being in force are owed. Approval of the Resolution Plan results in a clean slate qua claims and all claims which are not part of the Resolution Plan would not survive. The learned Counsel has relied upon the law laid down in **Committee of Creditors of Essar Steel India** vs. **Satish Kumar Gupta** reported at (2020) 8 SCC 531, **Ghanshyam Mishra & Sons** reported at 2021 (9) SCC 657, **Arun Kumar Jagatramka** vs **JSPL** reported at (2021) 7 SCC 474, **Ruchi Soya Industries** vs. **Union of India** reported at 2022 SCC Online SC 455 and **CC** vs. **Patanjali Foods** reported at 2022 (10) TMI 1019.

2.1 The learned Counsel for the appellant also submitted that a similar position, as mentioned above, qua extinguishment of claims upon approval of Resolution Plan has also been reiterated by the department in Instruction No. 1083/04/2022-CX9 dated 23.05.2022.

2.2 The learned Counsel for the appellant has also submitted that in **GGS Infrastructure Pvt Ltd** vs. **Commissioner** reported at 2021 (51) GSTL 187 (Bombay) Hon'ble Bombay High Court has held that any payment in relation to a company which has undergone IBC proceeding shall be in accordance with the Resolution Plan which is binding on all stakeholders including operational creditors. Once, the IBC provides for a single window revival for a corporate debtor by extinguishing and settling all its claims, the respondent cannot post facto ambush the appellant by contending that its claims against the appellant are not extinguished.

2.3 The learned Counsel for the appellant prayed that in terms of settlement provided in the Resolution Plan if operational creditor / Central Government had not submitted any claim within the prescribe time limit, then such claim is treated as having been extinguished and waived on the closing date 14.09.2020. In the present matter, as the operational creditor / Central Government has not submitted any claim, therefore, the same would stand extinguished. Any amount deposited as pre-deposit for the appeal would be refunded back. The demand confirmed vide the Order-in-Appeal for the period 2014-15 to June-2017 prior to the closing date should be discharged and settled as per Resolution Plan.

3. The learned AR was asked by the Bench to check up the position as to whether any claim was made by the department. In response, the AR has submitted that no claim has been launched against the said Order-in-Original.

4. In view of the above legal position, I am of the opinion that the demand confirmed vide the Order-in-Appeal for the period 2014-15 to June-2017 which is prior to the closing date 14.09.2020, stands discharged and settled as per the Resolution Plan. Appeal is decided in above terms.

(Order pronounced in the open Court on 31.08.2026)

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

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