

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Excise Appeal No. 41945 of 2017

(Arising out of Order-in-Original No. 57/2017 dated 22.05.2017 passed by Commissioner of Central Excise, No. 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai – 600 034)

M/s. Bhatia Coke Energy Limited

...Appellant

No. 45, Ketnamalle Village,
Sirupuzhal Pettai,
Gummudipoondi – 601 201.

Versus

Commissioner of GST and Central Excise

...Respondent

Chennai North Commissionerate,
No. 26, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

And

Excise Appeal No. 42010 of 2017

(Arising out of Order-in-Original No. 57/2017 dated 22.05.2017 passed by Commissioner of Central Excise, No. 26/1, Mahatma Gandhi Marg, Nungambakkam, Chennai – 600 034)

Commissioner of GST and Central Excise

... Appellant

Chennai Outer Commissionerate,
Newry Towers, No. 2054-I, II Avenue,
Anna Nagar,
Chennai – 600 040.

Versus

M/s. Bhatia Coke Energy Limited

...Respondent

No. 45, Ketnamalle Village,
Sirupuzhal Pettai,
Gummudipoondi – 601 201.

APPEARANCE:

For the Assessee : Ms. B. Amritha, Advocate
For the Revenue : Mr. Sanjay Kakkar, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 41071-41072 / 2025

DATE OF HEARING : 29.09.2025
DATE OF DECISION: 29.09.2025

Order :- Per Mr. P. DINESHA

The Ld. Advocate files order of the NCLT dated 20.06.2022 whereby, the resolution plan has been accepted.

2. It is to be noted that the decision of the Hon'ble Apex Court in the case of *Ghanashyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd.* [2021 9 SCC 657] has held as follows: -

"95. In the result, we answer the questions framed by us as under:

(i) 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 respect to a claim, which is not part of the resolution plan;**

(ii) 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 I&B Code has come into effect;

(iii) **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."**

From the above judgment, Hon'ble Apex court has held that no recoveries could be made when the claims/s is not part of approved resolution plan. The relevant paras read as under: -

"CIVIL APPEAL ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL) NO.11232 OF 2020

132. The appeal therefore is allowed. The impugned judgment and order dated 6.7.2020 passed by the Allahabad High Court is quashed and set aside. We hold and declare, that the respondents are not entitled to recover any claims or claim any debts owed to them from the Corporate Debtor accruing prior to the transfer date. Needless to state, that the consequences thereof shall follow.

WRIT PETITION (CIVIL) NO.1177 OF 2020

140. We hold and declare, that the respondents are not entitled to recover any claims or claim any debts owed to them from the Corporate Debtor accruing prior to the transfer date. Needless to state, that the consequences thereof shall follow.

CIVIL APPEALS ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL) NOS. 71477150 OF 2020

149. We hold and declare, that the respondents are not entitled to recover any claims or claim any debts owed to them from the Corporate Debtor accruing prior to the transfer date. Needless to state, that the consequences thereof shall follow..."

3. In the light of the above ratio decidendi, the revenue is not entitled to recover the demand and when the demand itself is not recoverable, then the present Appeal cannot be continued with. It is also clear that if the respondent has staked its claim and participated in the proceedings before the NCLT, then the resolution plan would be binding on it.

4. In the result, the appeals stand dismissed.

(Order pronounced in open court)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

MK

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)