IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.535 of 2012

(Arising out of Order-in-Original No.74/Commr./ST/Bol/11 dated 16.11.2011 passed by Commissioner of Central Excise, Bolpur.)

M/s. Sri Vasavi Industries Limited
(WBIDC Industrieal Growth Centre, Dwarika, Bishnupur, P.O. Dwarika, Dist.Bankura.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bolpur
.....Respondent
(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

APPEARANCE

NONE for the Appellant (s)
Shri S.Mukhopadhyay, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI P.K. CHOUDHARY, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 75864/2023

DATE OF HEARING : 15 May 2023
DATE OF DECISION : 15 May 2023

Per : K. ANPAZHAKAN :

An amount of Rs.89,72,013/- was confirmed by the Commissioner of Central Excise Bolpu, vide Order-in-Original dated 16/11/2011, along with the demand of interest and penalty. Aggrieved against the impugned order, the Appellant has filed the present appeal. During the time of personal hearing fixed on15.05.2023, none appeared on behalf of the Appellant. With the consent of Ld. A.R., the matter was taken up for hearing. On perusal of the appeal documents, it was observed that the Appellant has filed a written submission dated 12.05.2023, wherein they stated that Corporate Insolvency Resolution Process(CRIP) has been initiated against them under the provisions of Insolvency and Bankruptcy Code, 2017 by order of Amravati Bench of

National Company Law Tribunal(NCLT) vide order No CP(IB) No 325/7/HDB/2018 and TCP(IB) No.10/7/AMR/2019 both dated 28.10.2019. A Resolution Plan was submitted by Mr Bodugu Sudhakar Girish Siriram Juneja, Resolution professional of the Appellant company and the same has been approved. As per the Resolution Plan, as approved by Commissioner of CGST, Bolpur, an amount of Rs.65,90,05,994/- was admitted out of which Rs.16.67.528/- has been provided in the Resolution Plan.

3. In their written submissions, the Appellant stated that after CRIP proceedings and after approval of the Resolution Plan, no demand for the past period, ie, before initiation of the CRIP Proceedings and approval of the resolution Plan, can be made against the company. As per approved Resolution Plan, all proceedings initiated by the department for the past period deemed to be settled. No other Government dues will be payable other than the offer made in the Resolution plan.

4. In their written submission, the Appellant referred the decision of the Hon'ble Supreme Court in the case of Ghanshyam Mishra and Sons Pvt. Ltd.through the Authorized Signatory Vs Edelwwiss Asst Reconstruction Company Limited through its Director & Ors, dated 13.04.2021, wherein it was held that once a Resolution Plan is approved by the Adjudicating Authority under Section 31(1) of the Insovency and Bankruptcy Code, 2016, all claims which are not part of the Resolution Plan also shall stand extinguished and no person will be entitled or continue any proceedings in respect to a claim, which is not part of the resolution Plan.

5. We observe that in the present case, the Commissioner CGST Bolpur, has submitted a claim for an amount of Rs.65,90,05,994/-, which was admitted and out of which an amount of Rs.16.67.528/- has been provided in the Resolution Plan. As per the decision of the Hon'ble Supreme Court cited above, once the Resolution Plan is approved, all proceedings initiated by the department against the Appellant for the

past period deemed to be settled. No other Government dues will be payable other than the offer made in the Resolution plan.

6. In view of the above, we dispose of the appeal.

(Operative part of the order was pronounced in the open Court.)

Sd/
(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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