**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

**Excise Appeal No. 70610 of 2013**

(Arising out of Order-in-Original No. 10/MP/Commr/2013 dated: 22.02.2013 passed by Commissioner of Central Excise & Service Tax, Ranchi.)

**M/s. ESL Limited**
**(Formerly Known as M/s. Electrosteel Integrated Limited)**
(Siyaliori, Chandankyari, Bokaro, Jharkhand)

**...Appellant**

*VERSUS*

**Commissioner of CGST & C.Ex., Ranchi Commissionerate.**
(CR Building, Main Road, Ranchi-8340001.)

**...Respondent**

**APPERANCE :**

Mr. Niraj Baheti, Advocate for the Appellant
Mr. S.S. Chattopadhyay, Authorized Representative for the Respondent

**CORAM:**
**HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)**
**HON'BLE MR. RAJEEV TANDON MEMBER (TECHNICAL)**

**FINAL ORDER No. 75065/2024**

DATE OF HEARING : 23.01.2024
DATE OF DECISION : 23.01.2024

**PER: R. MURALIDHAR :**

When the Appeal came up for hearing, the Ld. Advocate appearing on behalf of the Appellant submits that against the Appellant NCLT provisions were invoked by State Bank of India. Accordingly, Shri Dhaivat Anjaria was appointed as Interim Resolution Professional (IRP). In Appeal Petition before the Hon'ble Supreme Court of India vide Civil Appeal No.8129 of 2019 in the Appellant own case, these facts have been recorded in Para 26 of the judgement. In Para 95 of the Judgement, the Hon'ble Apex Court has answered the questions framed by it is 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 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.*

2. Finally, the Hon'ble Supreme Court at Part 149 has held that the respondents in that case are not entitled to recover any claims recording as under :-

> 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. The Learned Advocate relying on the above judgment of the Apex Court, submits that the confirmed demand against the Appellant are no more enforceable.

4. In view of the above developments, the present Appeal has become infructuous and accordingly the same is dismissed.

(Dictated and pronounced in the open Court)

**Sd/-**
**(R. Muralidhar)**
**Member (Judicial)**

**Sd/-**
**(Rajeev Tandon)**
**Member (Technical)**

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