

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 34/2018 In
CP(IB) No. 839/MB/2017

Under section 33(1) & 60 of the I&B Code, 2016

In the matter of

Rakesh Agarwal,
Resolution Applicant of
Corporate Debtor
Shirdi Industries Ltd Applicant

v/s.

1. The Deputy Commissioner of
Central Excise & Service Tax
Division – Rudrapur, Uttarakhand
2. JM Financial Asset Reconstruction Co.
Pvt. Ltd.,
Cynergy, 7th floor, Appasaheb Marathe
Marg, Prabhadevi,
Mumbai – 400025.
3. Edelweiss Asset Reconstruction Co.
Pvt. Ltd.
Edelweiss House, Off: CST Road,
Kalina, Mumbai – 400098.
..... Respondents

Order delivered on 07.05.2018

Coram: Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

For the Petitioner : Mr. Rajesh Bohra, Advocate
For the Respondent: Mr. Jitendra B. Mishra, Advocate

Per: B.S.V. Prakash Kumar, Member (Judicial)

ORDER

Order dictated in the open court on 04.05.2018

On the application moved by Mr. Rakesh Agrawal, Corporate Applicant the declaration of demand notice dated 09.01.2018 issued by the Deputy Commissioner Central Excise & Service Tax Division, Rudrapur, Uttarakhand as invalid on the ground that the past dues

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payable to the department have already been restructured in the Resolution Plan, whereby R-1, i.e., Deputy Commissioner, Central Excise & Service Tax Division and other departments not entitled to make claim on the past dues in the light of Section 250 of Insolvency and Bankruptcy Code, 2016, wherein exemptions have been given to cases falling under Insolvency and Bankruptcy Code under Section 88 of The Finance Act.

2. In reply to this, R1 counsel submits that the order dated 12.12.2017 passed by this Bench having made it clear that the Corporate Debtor is liable to pay direct and indirect taxes, Municipal taxes as applicable without any exemption as sought in the Resolution Plan, this Corporate Applicant is liable to pay all the dues payable to Government Departments as mentioned in said Order.

3. On hearing the submissions of either side, it appears that R1 has not understood the order in correct perspective because it has been made clear in the order dated 12.12.2017 that this Corporate Applicant is not entitled to any kind of exemption after approval of the Resolution Plan. Since this order has clarified that the Corporate Applicant is not entitled to have any exemption in respect to payment of any kind of taxes that arise from the date of approval of the Resolution Plan, this Bench disposes of this application clarifying that R1 is not entitled to realise its dues which were claimed before the Resolution Professional during CIRP, henceforth this Bench hereby holds that this Respondent as well as other authorities are at liberty to realise all kinds of taxes that arise subsequent to the approval of the Resolution Plan, accordingly this Application is hereby disposed of.



sdl/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

sdl/-
B.S.V. PRAKASH KUMAR
MEMBER (JUDICIAL)

Certified True Copy
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On 08/05/2018

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Deputy Director

National Company Law Tribunal, Mumbai Bench