

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1225 of 2024
& I.A. No. 4066 of 2024

IN THE MATTER OF:

**Department of State Tax,
Through the Dy. Commr. of State Tax**

...Appellant

Versus

Siddheshwar Industries Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant : Ms. Shwetal Shepal, Advocate.

For Respondents : Mr. Sumit Shukla, Mr. Sanjeev Panda, Mr. Narendra Kumar, Advocates for R-1 (SRA).

ORDER
(Hybrid Mode)

12.07.2024: Heard learned counsel for the parties. This Appeal has been filed against order dated 24.11.2023 by which IA No.3461 of 2023 filed by the Resolution Professional for approval of Resolution Plan has been allowed and the Resolution Plan of the Corporate Debtor has been approved. The Appellant has filed a claim and was treated as Operational Creditor and has been allowed an amount of 1%.

2. Learned counsel for the Appellant submits that the Appellant ought to have been treated as Secured Creditor, hence, the Resolution Plan deserved to be rejected.

3. Learned counsel for the Respondent has relied on judgment of this Tribunal in ***Company Appeal (AT) (Ins.) No.246 of 2022, Department of State Tax, Through the Dy. Commissioner of State Tax vs. Zicom Saas***

Cont'd.../

Pvt. Ltd. & Anr. decided on 07.02.2023, where similar issue fell for consideration before this Tribunal pertaining to Maharashtra Value Added Tax Act, 2002 and it was held that State Tax Department cannot be held to be secured creditor. Judgment of Hon'ble Supreme Court in **State Tax Officer vs. Rainbow Papers Limited, (2022) SCC OnLine SC 1161** was also noticed and it was held that the said judgment is distinguishable.

4. Following the judgment of this Tribunal dated 07.02.2023, we are of the view that Appellant cannot be held to be a secured creditor. There is no merit in the Appeal. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn