

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Comp. App. (AT) (Ins) No. 1591 of 2023 & I.A. No. 5750 of 2023**

**(Arising out of the Order dated 12.10.2023 passed by the National Company Law Tribunal, Ahmedabad Bench in IA No. 692 (AHM) of 2021 in CP (IB) No. 185 (AHM) of 2018)**

**IN THE MATTER OF:**

**Superintendent of Stamps & Inspector General of Registration,**

Stamps & Registration Bhavan, Sector-14, KH-5 Circle, Gandhinagar, Gujarat. (Through its Authorized Officer, Mr. Vipin Jayantilal Paneri, Chief Inspector of Stamps,

Email: [stamps-nirixan@gujarat.gov.in](mailto:stamps-nirixan@gujarat.gov.in)

**...Appellant**

**Versus**

**Avil Menezes Resolution Professional of AMW Autocomponent Limited,**

Having its address at: 416, Crystal, Paradise Co-op Soc. Ltd. Dattaji Salvi Marg, Above Pizza Express, Off. Veera Desai Road, Andheri West, Mumbai-400053

Mail Id: [irp.amwautocomp@gmail.com](mailto:irp.amwautocomp@gmail.com)

**...Respondent**

**Present**

**For Appellant:** Ms. Maithili D Mehta, Adv.

**For Respondent:** Mr. Gopal Jain, Sr. Adv. with Mr. Madhav Konoria, Saideepa Bhattacharyya, Neha Shivhare, Adv.

**J U D G E M E N T**

**(20.05.2024)**

**NARESH SALECHA, MEMBER (TECHNICAL)**

1. The present Appeal has been filed by Superintendent of Stamps & Inspector General of Registration (in short **Appellant**) under Section 61 of the

Insolvency & Bankruptcy Code, 2016 (in short '**Code**') in Company Appeal (AT) (Insolvency) No. 1591 of 2023 against the Impugned Order dated 12.10.2023 passed by the National Company Law Tribunal, Ahmedabad Bench (in short '**Adjudicating Authority**') in IA No. 692 (AHM) of 2021 in CP (IB) No. 185 (AHM) of 2018. It has been brought out that the Appellant is the statutory body of the Government of Gujarat functioning under the provisions of the Gujarat Stamp Act, 1958.

**2.** Heard the Counsel for the Parties and perused the records made available including the cited judgements.

**3.** It is the claim of the Appellant that the Appellant had filed the claims of Rs. 15,38,79,179/- being in nature of Stamp Duty and Penalty, however only Rs. 2,65,00,000/- has been provided in the Resolution Plan under the caption "Land Payments and Stamps Duty" and did not consider remaining outstanding amount of stamp duty and fees.

**4.** Mr. Avil Menezes is the Resolution Professional of the Corporate Debtor and the Respondent herein.

**5.** It is the case of the Appellant that he submitted the claims of Rs. 15,38,79,179/- based on the order dated 29.08.2012 passed by the Hon'ble Gujarat High Court in Company Petition No. 133 of 2012 regarding demerger of the relevant companies.

**6.** The Appellant pointed out that the Stamp Duty accrued as a result of demerger of Asia Motors Works Ltd. being transferor company and AMW Motors Ltd. being the transferee No. 1 company and AMW Autocomponent Ltd. being the transferee No. 2 company.

**7.** Giving the background of the case, the Appellant brought out that he filed an Interlocutory Application bearing I.A. No. 1092 of 2023 before the Adjudicating Authority in CP (IB) No. 185 of 2019 seeking declaration to the effect that claim of the Appellant being in the nature of Stamp Duty and cannot be ignored by the Resolution Professional only on the ground that the applicant authorities have filed their claim at the belated stage. The Appellant pleaded that I.A. No. 1092 of 2023 is pending adjudication before the Adjudicating Authority since it was not considered by the Adjudicating Authority on 12.10.2023 despite being brought to the notice of the Adjudicating Authority.

**8.** It is the allegation of the Appellant that although the fact was brought to the notice of the Adjudicating Authority regarding his demand of Rs. 15,38,79,179/-, however the Tribunal did not take cognizance of the same.

**9.** The Appellant submitted that without paying the statutory claims, the company does not get a clear and marketable title of the properties in question.

**10.** The Appellant also assailed the conduct of the Resolution Professional for not considering the fact that the Corporate Debtor has agreed in the registered mortgage deeds with Sub-Registrar's Office on 08.05.2014 to execute related

documents, deeds and registration within 3 months subject to outcome of writ petition being Special Civil Application No. 14182 of 2013.

**11.** It has been clarified that the demerger of the said companies was approved by the Hon'ble Gujarat High Court vide its order dated 29.08.2012 passed in Company Petition No. 133 of 2012 and subsequent to which the application was filed under Section 31 of the Gujarat Stamp Act, 1958 by the demerged company AMW Ltd. before the Collector and Additional Superintendent of Stamps (in short '**Collector**') seeking an opinion for payment of Stamp Duty pursuant to Article 20(d) r/w Section 2(g) of the Gujarat Stamp Act, 1958 and the Authority vide its order dated 29.07.2013 gave the opinion that the amount of Rs. 7,50,15,130/- and Rs. 5,53,64,009/- were liable to be paid by the resultant companies being Asia Motor Works Ltd. and AMW Auto Component Ltd., respectively.

**12.** It has been brought out that the Corporate Debtor challenged the opinion of Collector vide Special Civil Application No. 14182 of 2013 before the Hon'ble Gujarat High Court and the Hon'ble High Court granted interim relief on 12.09.2013 and subsequently this application was withdrawn on 27.01.2020.

**13.** The Corporate Debtor subsequently approached the Chief Controlling Revenue Authority under Section 53(1) of the Gujarat Stamp Act, 1958 challenging the opinion of the Collector dated 29.07.2013 which was rejected by Chief Controlling Revenue Authority on 20.04.2020 on the ground of limitation.

**14.** It has been brought out that Indian Overseas Bank as Financial Creditor of the Corporate Debtor initiated the application filed under Section 7 of the Code being CP (IB) No. 185 of 2018 and the same was admitted and CIRP of the Corporate Debtor initiated and Interim Resolution Professional (in short 'IRP') was appointed vide order dated 01.09.2020.

**15.** Subsequent, to the CIRP initiation, the IRP issued a public notice inviting the claims on 03.09.2020.

**16.** The Appellant submitted that the Appellant in exercise of powers under Section 39(1)(b) r/w Section 33 of the Gujarat Stamp Act, 1958 issued notice dated 22.01.2021 for recovering of the stamp amount along with penalty and for initiating proceedings for impounding the documents in question and in reply the Resolution Professional vide letter dated 17.02.2021 intimated the Appellant about initiation of the CIRP Proceedings.

**17.** It is a case of the Appellant that he was informed first time by the Respondent only vide letter dated 17.02.2021 and no previous communication was served upon him.

**18.** The Appellant stated that the Appellant vide order dated 20.10.2021 passed an order imposing stamp duty with penalty and also created a charge on the property in question in the revenue record.

**19.** The Appellant submitted that in response to public advertisement dated 03.09.2020, the Appellant filed their claims in the statutory form on 23.03.2023,

however, the Resolution Professional did not consider the claims filed by the Appellant.

**20.** It is the case of the Appellant that the Impugned Order dated 12.10.2023 is illegal as the Adjudicating Authority failed to consider the fact that the demerger was approved by the Hon'ble Gujarat High Court on 29.08.2012 and therefore the stamp duty was in the nature of statutory duties, which were being avoided by the Corporate Debtor since 2012.

**21.** The Appellant pleaded that the Corporate Debtor unsuccessfully tried to get relief from Hon'ble Gujarat High Court and later the Corporate Debtor withdraw the petition on 27.01.2020, whereas the Financial Creditor filed Section 7 application and the moratorium was declared on 01.09.2020. It is further the case of the Appellant that Section 14 of the Code imposing moratorium of the Corporate Debtor cannot be applicable to the Appellant as the demerger stamp duty claim was approved much earlier in 2012.

**22.** The Appellant emphasised that the proceedings qua the properties of the Corporate Debtor were initiated much prior to imposing moratorium on 01.09.2020. It is the argument of the Appellant that considering the fact that it is a legal requirement to pay the stamp duty on the demerger scheme, the properties in question does not belong to the Corporate Debtor because of non payment of stamp duties.

**23.** The Appellant stated that any instrument which is chargeable with duty and which is not duly stamped cannot be used for purpose of any evidence and therefore the Corporate Debtor does not hold a good title for the properties in question.

**24.** The Appellant submitted that the mortgaged deed was executed between resulting companies (demerger) in favour of IDBI Trusteeship Services Ltd. on 08.05.2014 and it was agreed by concerned parties to execute related documents, i.e., registration was supposed to be done on finalization of stamp duty payable. Hence, the Corporate Debtor cannot avoid making the payment of the stamp duty.

**25.** The Appellant reiterated that without stamp duty payment, the Corporate debtor cannot transfer its property as valid document to the Resolution Applicant and submitted that claims of the Appellant are covered under Section 3(4) of the Code. The Appellant further submitted that charge was created for the properties of the Corporate Debtor in the revenue books on 10.05.2022, they same will fall in the purview of the term ‘charge’ of Section 3(4) of the Code.

**26.** The Appellant emphasised that in view of the judgement passed by Hon’ble Supreme Court of India in the matter of *State Tax Officer Vs. Rainbow Papers Limited* [(2022) SCC OnLine SC 1162], government dues would fall within the terms of Secured Creditors in Section 3(30) and Section 3(31) of the Code.

**27.** At this stage, we will look into the relevant section of the Code referred by the Appellant, which reads as under :-

**“3. Definitions. –**

(30) “**secured creditor**” means a creditor in favour of whom security interest is created;

(31) “**security interest**” means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person: Provided that security interest shall not include a performance guarantee;”

*(Emphasis Supplied)*

**28.** The Appellant also cited judgement of Hon’ble Supreme Court of India in the case ***Hindustant Lever and Ors. Vs. State of Maharashtra [(2004) (9) SCC 438]*** whereby the Hon’ble Supreme Court held that payment of stamp duty is mandatory required.

**29.** The Appellant further referred to the judgment of Hon’ble Supreme Court of India in the matter of ***Uttar Pradesh & Ors. Vs. Raja Mohammad Amir Ahmad Khan*** reported in AIR 1961 SC 787, wherein it was held that if an instrument is properly stamped and the person executing a document wants to proceed with effecting the document or using it for the purpose of evidence he has to pay the duty.



**30.** The Appellant places reliance on the decision in the matter of *Alembic Pharmaceuticals Ltd. Vs. Chief Controlling Revenue Authority [(2014) 3 GLR 2255]* whereby the Hon'ble Supreme Court of India upheld the full bench decision of the Hon'ble Gujarat High Court holding that Article 20(d) applies in case of scheme of arrangement and amalgamation where an order is passed by the Hon'ble High Court which brings it within the term 'conveyance' being Section 2(g) of the Gujarat Stamp Act, 1958.

**31.** Concluding his remarks, the Appellant requested this Appellate Tribunal to allow his appeal and set aside the Impugned Order.

**32.** Per-contra, the Respondent denied all the averments of the Appellant treating these as misleading, mischievous and without any merit.

**33.** The Respondent denied the averment made by the Appellant that he was informed for the first time vide Respondent's letter dated 17.02.2021. The Respondent submitted that the public announcement was issued on 03.09.2020 and the Respondent was very well aware that his claims are required to be filed in time. The Respondent submitted that the claim has been filed by the Appellant under Form 'F' on 23.03.2023 after delay of 18 months from the approval of the Resolution Plan by the Committee of Creditors (in short 'CoC').

**34.** The Respondent further submitted that the issue of Stamp Duty payable to the Appellant was considered while approving the Resolution Plan by the

Adjudicating Authority based on the relevant law and sections of the Code, Impugned Order was correctly passed.

**35.** The Respondent submitted that the claim was filed by the Appellant after inordinate delay of 30 months from the public announcement and 25 months from the claims of the Appellant that the Appellant came to know initiation of CIRP when the Respondent wrote to him on 17.02.2021. The Respondent stated that time is essence in the IBC and such belated claims could not have been considered.

**36.** The Respondent assailed the conduct of the Appellant who filed an IA No. 1092 of 2023 in CP (IB) 185 of 2018 much late on 27.09.2023 before the Adjudicating Authority challenging the Resolution Plan, thus there was a delay of almost more than one year and four months even in filing I.A. before the Adjudicating Authority.

**37.** It is the case of the Responded that the Resolution Plan was approved by the Adjudicating Authority on 12.10.2023 and the approved Resolution Plan provided payment of Rs. 2.65 Crores towards land payment and stamp duty.

**38.** The Respondent submitted that the present appeal is premature and not maintainable in view of pending I.A. No. 1092 of 2023 filed by the Appellant before the Adjudicating Authority. The Respondent highlighted various issues taken in IA No. 1092 of 2023 filed by the Appellant like dues of the Appellant would fall within the purview of Section 3(6) of the Code, applicability of

**Rainbow Paper (Supra)**, the claims of the Appellant cannot be rejected only because of delay and not informing the Appellant by the Resolution Professional prior to letter dated 17.02.2021. The Respondent submitted that similar issue have been raised in the present appeal before this Appellate Tribunal, hence, the appeal is premature and not maintainable.

**39.** The Respondent pleaded that due to such inordinate delay which has not been explained by the Appellant, the Appellant cannot be allowed to agitate the same, specially keeping in view the judgment **RPS Infrastructure Ltd. Vs. Mukul Kumar**, [(2023) SCC Online SC 1147], whereby the Hon'ble Supreme Court of India held as follows:

*"the mere fact that Adjudicating Authority has not yet approved the plan does not imply that the plan can go back and forth thereby making the CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be similar persons who may jump on to the bandwagon. As described above, in Essar Steel, the Court cautioned against allowing claims after the resolution plan has been accepted by the CoC."*

*(Emphasis Supplied)*

**40.** The Respondent stated that the Adjudicating Authority had considered the stamp duty payable to the Appellant and approved the same vide the Impugned Order and noted the Resolution Professional's submissions in this respect i.e., the

Respondent had admitted the Stamp Duty Payment as a liability under the Resolution Plan.

**41.** The Respondent intimated that the proper treatment of Stamp Duty Payments has been provided within the Resolution Plan, even though the Appellant pursued its claim against the Corporate Debtor at a significantly belated stage. The Respondent also submitted that the Appellant filed his claims under Form F instead of Form B as stipulated in the CIRP Regulations for an Operational Creditor and only on this ground the claims could have been rejected. It is the case of the Respondent that inspite of such conduct, of the Appellant, the contingent liability owed towards the Appellant was always adequately disclosed in the financial statements of the Corporate Debtor by the Respondent and was provided even to the prospective Resolution Applicants in the CIRP Process.

**42.** The Respondent brought out that the Resolution Plan submitted by the Successful Resolution Applicant has given due consideration to the payments owed to the stamp authorities i.e., the Appellant and dealt with Stamp Duty Payments in Clause 1.1 of Resolution Plan.

**43.** We note Clause 1.1 of the Resolution Plan which reads as under :-

**PART II- THE TERMS OF THE RESOLUTION PLAN**

**1. DEFINITIONS AND INTERPRETATION**

**1.1**        *Unless otherwise defined in this Resolution Plan, the following capitalized terms shall have the following*

*meanings, unless repugnant to the subject, matter or context thereof ;*

<b><i>Definition/ Abbreviations</i></b>	<b><i>Meaning</i></b>
<b><i>Stamp Duty Payments</i></b>	<p><i>shall mean and include all payments to be paid to the stamp authorities or Governmental Authorities in respect of the Corporate Debtor Lands, including:</i></p> <p><i>(a) Amount of Rs. 5,53,64,009/- (Rupees five crore fifty- three, lakhs sixty four thousand and nine only) on the AMWL Demerger Scheme as per the Adjudication Order the Collector and Additional Superintendent of Stamps (Gujarat) dated July 29, 2013;</i></p> <p><i>(b) Penalty of 15% p.a. levied as per the order of the Collector and Additional Superintendent of Stamps, Gandhinagar dated July 29, 2013;</i></p> <p><i>(c) Any other stamp duty and penalties levied by any Governmental Authority or Person in respect of the Corporate Debtor Lands.</i></p>

**44.** The Respondent stated that once the Resolution Professional is approved by the Adjudicating Authority the remaining claims gets extinguishes based on several judgement of the Hon'ble Supreme Court of India, especially in the matter

of *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta*, [(2020) 8 SCC 531] and *Ghanshyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited*, (2021) 9 SCC 657. The Respondent submitted that the Plan Approval Order by the Adjudicating Authority clearly stipulates that the claim of the stamp authority for the outstanding sum shall be dealt in accordance with the 2(xiv) of the Resolution Plan.

**45.** The Respondent pleaded that the claims of the Appellant were considered in Section 3.4.4 of Successful Resolution Plan and also in Section 8.2 of the approval of Resolution Plan.

**46.** The Respondent pleaded that the Code is self-contained Code with enabling power to override any law inconsistent with the Code, in terms of Section 238 of the Code.

**47.** Concluding his remarks, the Respondent submitted that the appeal may be dismissed with cost.

**48.** The limited issue to be decided in the present appeal is regarding belated claims of the Appellant which has been filed by the Appellant in form 'F' on 23.03.2023 against the public announcement by the Respondent issued on 03.09.2020.

**49.** At first, we take up the objections of the Respondent that the Appellant filed the claims wrongly in Form-F and not Form B, hence, claims would not

have been considered. We do not find substance in this pleadings of the Respondent especially keeping in view the judgement of the Hon'ble Supreme Court of India in the matter of ***Greater Noida Industrial Development Authority Vs. Prabhjit Singh Soni & Anr.*** [(2024) INSC 102], where it was held that filing of claims in wrong form can't be a ground to reject the claims. Thus, this argument of the Respondent stands rejected.

**50.** We observe that time is of the essence for resolution of the Corporate Debtor and if any plan is saddled with huge delays of more than 30 months as in the present case, we are afraid that the resolution of the Corporate Debtor will never take off.

**51.** We have noted from the pleadings of the Appellant that he was informed for the first time by the Respondent on 17.02.2021 whereas which was much delayed after the public announcement on 03.09.2020. One query was raised by this Appellate Tribunal to the Appellant that even for argument's sake the Appellant came to know only on 17.02.2021 why did the Appellant file the claim only on 23.03.2023 i.e., after more than 2 years and not immediately after 17.02.2021, the Appellant could not respond properly on this pointed query. Thus, we note that there was no plausible reason for the Appellant to explain his conduct of filing such belated claims after 30 months of the public notice.

**52.** We observe that the demerger claim was approved by Hon'ble Gujarat High Court way back in 2012 and accordingly stamp duty was concluded. We

also note that the Corporate Debtor sought an opinion from the relevant stamp duty authority who gave the opinion on 29.07.2013.

**53.** In this regard one more query was raised to the Appellant as to what action they have taken to recover their money since, 2012 and why the Appellant allowed such inordinate delay since 2012 for non collection or non realization of stamp duty. We note that the Appellant stated that his claims are to be treated at par with land revenue dues and the CIRP proceeding was initiated only in 2018. For this query of this Appellate Tribunal, no specific answer could be furnished by the Appellant to elaborate action taken by the Appellant in realising its dues even prior to initiation of the CIRP. We have already noted in previous paragraphs that even the claims were filed by the Appellant after 30 months of the CIRP.

**54.** At this stage, we would like to take into consideration the relevant portion of the approved Resolution Plan which deals with the Stamp Duty payment which reads as under:-

Section 3.4.4 of the Successful Resolution Plan

"the payment set out in the Financial Plan, shall be deemed to of the liabilities pertaining be in full and final settlement/discharge to the Other Operational Creditors' Operational Debt and the Statutory Dues of the Statutory Dues Creditors in compliance with the Applicable Law".

*(Emphasis Supplied)*



## Section 8.2 of Approved Resolution Plan

*"(ee) Resolution Applicant or the Corporate Debtor shall not be liable to pay any amounts to the stamp authorities (including Stamp Duty Payments) howsoever arising as a result of any action taken by the Corporate Debtor or on behalf of the Corporate Debtor prior to and including the NCLT Approval Date with regard to the AACL Lands or any action in connection with acquisition /transfer of the AACL Lands in the name of the Corporate Debtor including if such past liability pertaining to the aforesaid period arises any time in the future post the NCLT Approval Date. The stamp authorities or other Governmental Authorities, being Operational Creditors shall be paid such amounts as set out in the Resolution Plan. On and from the NCLT Approval Date, the stamp authorities, Governmental Authorities being Operational Creditors (whether they have filed claims as Operational Creditors or not) shall waive and extinguish all claims against the Corporate Debtor and the Resolution Applicant, without any further act, deed or action required on the part of the Corporate Debtor and the Resolution Applicant, in respect of any payments (including the Stamp Duty Payments), defaults or arrangements made under the AMWL Demerger Scheme or any contracts, memorandums of understanding, documents or any agreements pertaining to the AACL Lands and Corporate Debtor Lands*

*(zz) On and from the NCLT Approval Date, as an integral part of implementation of the Resolution Plan, the AACL*

*Lands shall be transferred to the Corporate Debtor to give effect of the AMWL Demerger Scheme, and the Governmental Authorities shall fully cooperate with the Resolution Applicant/Corporate Debtor for the same. No penalties, levies, fees, non-compliances for delayed filing and registration of the same (including Stamp Duty Payments) shall be levied by the Governmental Authorities and if any such amounts are levied/claimed, the same shall stand waived and extinguished in perpetuity. The Corporate Debtor shall make necessary applications to give effect to the same, if required.*

*(Emphasis Supplied)*

**55.** From above it is clear that issue of the stamp duty was indeed provided in the Resolution Plan in the ambit of the Code and the same was considered by the CoC exercising their commercial wisdom and finally the Resolution Plan was approved by the Adjudicating Authority.

**56.** The Appellant has taken the plea that his claim cannot be barred under Section 14 of the Code as the demerger was sanctioned in the year 2012.

In this regard, we would like to look into the provisions of Section 14 of the Code which reads as under :-

***“14. Moratorium. –***

*(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority*

shall by order declare moratorium for prohibiting all of the following, namely: -

*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b)transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

*(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*

*(d)the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.\*\*\**

*(Emphasis Supplied)*

**57.** We note from above that as per the Code, no pending proceedings can continue against the Corporate Debtor. As such the issue raised by the Appellant on this ground is not sustainable and stand rejected.

**58.** The point raised by the Appellant regarding is claim being covered under Section 3(6) of the Code definition of ‘Claim’ as well as in Section 3(4) as charged are not relevant, as it is not a question of claims not being considered but claim was considered in the Resolution Plan as feasible and also taking into account the belated claims by the Appellant almost after 30 months of the CIRP.

**59.** We observe that the Appellant cited a judgment of *Hindustan Lever (Supra)* where it was made clear that payment of Stamp Duty is must. This fact is again not found relevant as no one is disputing that the stamp duty is mandatory requirement but the fact remain how the stamp unpaid duties are to be covered in Resolution Plan and the impact of moratorium. Similarly, the judgement cited by the Appellant in the case of *Uttar Pradesh (Supra)* is also pronounced on its own facts and not applicable in the present appeal.

**60.** We also note that the Resolution Plan was approved by the Adjudicating Authority by vide Impugned order dated 12.10.2023 and it is seen that the total claims which was filed were of Rs. 1695.85 Crores and the claim of Rs. 1672.08 Crores were admitted. We also note that the CoC with requisite voting rights approved the Resolution Plan and thereafter the Respondent filed an I.A. No. 692 (AHM) 2021 in CP (IB) 185 of 2018 for Plan approved by the Adjudicating Authority. Thereafter the Adjudicating Authority approved the Resolution Plan of M/s Steel Strips Wheels Limited who propose to infuse Rs. 138.15 Crores. Obviously, the intended hair cut is being taken by all the Stakeholders including the Secured Financial Creditors, Operational Creditor and the Government dues. Therefore, the Appellant's challenge on account of non-payment of full dues is not convincing.

**61.** We also note that in para 7 of the Impugned Order, the Adjudicating Authority had discussed the issue regarding claims of the Stamp Authority. This reads as under :-

*“7. It is further noted that an affidavit as regards to the eligibility of the resolution applicant under Section 29A of the IB Code along with the undertaking of the resolution applicant to this effect has been filed. We have also perused the contents of the resolution plan, we are of the view that Regulations 36 to 39 of CIRP Regulations, 2016 have been complied with. We further noted that the resolution plan complies with all requirements under Section 30(2)(b) of the IB Code. The Resolution Plan has addressed the issue related to Paschim Gujarat Vij Company Ltd (IA - 10) on which orders of the Tribunal are pending and the claim of the Stamp Authority of Gujarat. It seems that interest of all stakeholders are taken care of. We also find that the resolution plan addresses the cause for failure and also contains measures to run the Corporate Debtor in future and that the resolution plan is both feasible and viable as held by CoC and it also contains provisions for its effective implementation. There is no reason to reject the resolution plan. Accordingly, we being satisfied, approve the Resolution Plan and pass the following order:\*\*\*\*\**

*j) Exemption granted from levy of stamp duty and fees applicable in relation to Successful Resolution Plan and its implementation, including any stamp duty, registration costs*

and any fees payable to the Registrar of Companies other than that provided in the Resolution Plan;\*\*\*\*

x) All unpaid liabilities and claims that are not filed with the RP before the approval of the resolution plan and those which are not included in the said resolution plan would stand extinguished. \*\*\*”

*(Emphasis Supplied)*

**62.** Both the Appellant and the Respondent admitted that the I.A. No. 1092 of 2023 filed by the Appellant in CP (IB)/185/2018 is pending adjudication on similar grounds as raised by the Appellant in the present appeal. Although the aspect of pending I.A. No. 1092 of 2023 was pleaded by the Appellant, however, we note that the same has not been attached in the present Appeal and therefore, based on the submission made both the Appellant and the Respondent, we only note that I.A. No. 1092 of 2023 filed by the Appellant is still pending and we find note the pleadings of the Respondent that this appeal is premature.

**63.** We note that the claim was filed by the Appellant much beyond the date when the Resolution Plan was approved by the CoC. We also note that the Respondent, however disclosure the contingent liability to the perspective Resolution Applicants through financial statement that the Respondent is seeking a waiver of Stamp Duty Payments through the provisions of its Resolution Plan. The Respondent explained that though he sought exemption time the stamp duty however it was not a condition precedent for the implementation of the Resolution

Plan and made clear that the denial of waiver by the Adjudicating Authority would only result in that the Stamp Duty Payments to be made by the SRA in accordance to the Resolution Plan.

**64.** We also note that in catena of Judgment of Hon'ble Supreme Court of India has held that SRA cannot be burdened with related undisputed claims after the Resolution Plan submitted by him has been approved by the CoC. Two of such judgment so the Hon'ble Supreme Court of India are as under :-

**65.** We take note that the Hon'ble Supreme Court of India in *CoC of Essar Steel India Limited (Supra)*, held that:

*"...A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head pop ping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor..."*

*(Emphasis Supplied)*

**66.** Similarly, in *Ghanshyam Mishra (Supra)*, the Hon'ble Supreme Court of India held that:

*"93..... After CoC approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in subsection (2) of Section 30 of the I&B Code. Only thereafter,*

*the Adjudicating Authority can grant its approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors, and other stakeholders involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable*

*102. In the result, we answer the questions framed by us as under:*

*102.1 That once a resolution plan is duly approved by the Adjudicating Authority under subsection (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.*”

*(Emphasis Supplied)*

**67.** It is the fact that the Resolution Plan was approved by the CoC much earlier than the claim submitted by the Appellant. The Resolution Plan is stated to have been implemented by the SRA.

**68.** We have already noted that as per ratio decided by the Hon’ble Supreme Court of India in the matter of *Committee of Creditors of Essar Steel India Limited (Supra)* that claims after the Resolution Plan has been approved by the



CoC should not be accepted. Similarly, in *RPS Infrastructure (Supra)* the Hon'ble Supreme Court of India has again held that mere fact that the plan has not been approved by the Adjudicating Authority does not imply that plan can go back and forth thereby making the CIRP an endless process.

**69.** In view of above detailed discussions, we find no merit in the appeal. The appeal deserved to be dismissed and stand dismissed. No Costs. Interlocutory Application(s), if any, are Closed.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

**[Mr. Naresh Salecha]**  
**Member (Technical)**

**[Mr. Indavar Pandey]**  
**Member (Technical)**

Sim