

OD – 8

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

IA NO. GA/2/2024
In CS/232/2015

UNION OF INDIA & ANR.
Vs
M/S RAMSWARUP LOHH UDYOG & ORS.

BEFORE:
THE HON'BLE JUSTICE SUGATO MAJUMDAR
Date: 21st May, 2024

Appearance:

Ms. Rajashree Roy, Adv.
Mr. Asit Kumar De, Adv.
Ms. Susmita Senapati, Adv.

...for the Applicant.

Mr. Mainak Bose, Adv.
Mr. Suddhasatva Banerjee, Adv.
Mr. Somdutta Bhattacharyya, Adv.
Ms. Arti Bhattacharyya, Adv.

....for the Defendant No. 5.

The Court: GA 2 of 2024 is filed by the authorised representative of Defendant No. 5. It is contended that the Defendant No. 1 merged with the Defendant No. 5 in the year 2008 in terms of Order dated 30th June, 2008 passed by this Court. Therefore, the Defendant No. 1 ceased to being exist. Subsequently, the Defendant

No. 5's operation was shut down for more than fourteen years and Corporate Insolvency Resolution Process was initiated National Company Law Tribunal, Kolkata Branch under Insolvency and Bankruptcy Code, 2016. The resolution plan was subsequently approved in the meeting of Committee of Creditors on March 16, 2019 which was approved more or less by the NCLT, Kolkata Branch in terms of Order dated 04/09/2019. In terms of Order dated 06/04/2022, the NCLT directed the parties to implement the approved resolution plan within thirty days.

Mr. Bose, the Learned Counsel for the Petitioner submitted that it is no longer *res integra* that after insolvency proceeding is over and the resolution plan is duly approved, the corporate entity starts with a clean slate on rejuvenation. Mr. Bose referred to **Ghanashyam Mishra & Sons (P.) Ltd. Vs. Edelweiss Asset Reconstruction Co. Ltd. [(2021) 9 SCC 657]**, to submit that the company, after revival, in terms of resolution plan comes with a clean slate. Therefore, claim against the Defendant No. 5 stands extinguished.

The Learned Counsel for the Plaintiff submitted that they are not in a position of contradict the position of law as against the Defendant No. 5. However, she will take instruction from her client as to whether the suit shall be proceeded against the Defendant No. 2, 3 and 4.

It is no longer *res integra* that once the insolvency proceeding is over and corporate plan is approved the companies starts with a clean slate. This is

established in the statutory provisions as well as in **Ghanashyam Mishra & Sons (P.) Ltd. Vs. Edelweiss Asset Reconstruction Co. Ltd. [(2021) 9 SCC 657]**, **Sirpur Paper Mills Limited Vs. I.K. Merchants Pvt. Ltd. [(2021) SCC OnLine Cal 1601]**, **CoC of Essar Steel India Limited. Through Authorised Signatory Vs. Satish Kumar Gupta & Ors. [(2019) SCC OnLine SC 1478]**, **India Resurgence ARC Pvt. Ltd. Vs. Amit Metaliks Ltd. & Anr. [(2021) SCC OnLine SC 409]** and **Innovative Industries Limited Vs. ICICI Bank & Anr. [(2018) 1 SCC 407]**. In view of that the claim of Union of India against the Defendant No. 5 no longer subsist and is deemed to be relinquished. Accordingly, it is a fit case where name of the Defendant No. 1 should be struck off as being merged with Defendant No. 5; and the name of Defendant No. 5 also should be struck off from the array of the parties, as the claim against the Defendant No. 5 remains non-existent.

Hence, it is ordered that the name of the Defendant No. 1 and 5 be struck off from array of parties. Department is directed to amend the cause title accordingly.

GA 2 of 2024 stands disposed of. The suit will appear in the list on 10th July, 2024.

(SUGATO MAJUMDAR, J.)