

2025:BHC-OS:21442-DB



6.wp(l).34996.2025.doc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.34996 OF 2025

V Hotels Limited

.. Petitioner

Versus

The National Faceless Assessment Centre,
Delhi & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

Digitally signed by
UTKARSH
KAKASAHEB
BHALERAO
Date: 2025.11.19
13:41:47 +0530

**Mr. Prakash Shah, Senior Advocate a/w Jas Sanghavi,
Suyog Bhawe, Linzy Sharan i/b PDS Legal, Advocates for
the Petitioner.**

Mr. Vipul Bajpayee, Advocate for the Revenue/Respondents.

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE : NOVEMBER 17, 2025**

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. By this writ petition under Article 226 of the Constitution of India, the Petitioner is challenging the Notice dated 24th June 2025 issued under Section 143(2) of the Income Tax Act, 1961 (for short “**the Act**”) and Notice dated 26th September 2025 issued under Section

Utkarsh

142(1) of the Act, both issued by Respondent No.1, for the A.Y. 2024-25 (F.Y.2023-24).

3. It is contended by the Petitioner that prior to initiation of the impugned assessment proceedings, the NCLT, Mumbai Bench, vide its order dated 31st May 2019, admitted an application filed by Asset Reconstruction Company (India) Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short “**IBC**”) and declared a moratorium under Section 14 of the IBC and appointed the Resolution Professional.

4. In an appeal filed against the order dated 31st May 2019, the National Company Law Appellate Tribunal (the **NCLAT**), vide its order dated 11th December 2019 set aside the said order dated 31st May 2019.

5. The Hon’ble Apex Court, vide its order and judgment dated 1st August 2022, was pleased to set aside the order dated 11th December 2019 of NCLAT and restored the order dated 31st May 2019 passed by the learned NCLT.

6. In view of the order of the Hon'ble Apex Court, the CIRP proceedings continued and the NCLT, vide its order dated 26th April 2024, approved the Resolution Plan of Macrotech Developers Limited [the Resolution Applicant] in accordance with the provisions of Section 31 of the IBC.

7. It is the Petitioner's case that under the Resolution Plan of Macrotech Developers Limited approved by the NCLT, any claim and/or liability pertaining to the period prior to the approval of the Resolution Plan by NCLT, i.e. prior to 26th April 2024, stood extinguished and/or settled in terms of the Resolution Plan. Consequently, all proceedings, suits, claims, etc. in connection with the corporate debtor, i.e. the Petitioner, or its affairs, in relation to any period prior to the approval of the Resolution Plan, stood extinguished.

8. After the approval of the Resolution Plan by the NCLT, in order to comply with the provisions of Section 139(1) of the Act and in view of not being treated as a defaulter, the Board of Directors appointed by Macrotech Developers Limited had filed the return of income for the Petitioner for A.Y.2024-25 (Financial Year 2023-24).

9. Thereafter, Respondent No.1 has issued the impugned notices dated 24th June 2025 under Section 143(2) of the Act and 26th September 2025 under Section 142(1) of the Act.

10. Accordingly, it is contended by the Petitioner that the impugned notices are liable to be quashed and set aside, as being entirely without jurisdiction and contrary to law declared by the Hon'ble Apex Court in ***Ghanshyam Mishra & Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd. & Ors. [(2021) 9 SCC 657]***, ***Vaibhav Goel & Anr. Vs. Deputy Commissioner of Income Tax & Anr. [(2025) 255 Company Cases 266 (SC)]*** and orders dated 06th August 2025 passed in Petitioner's own case for A.Y.2020-21 and A.Y.2021-22 in Writ Petition (L) Nos.22777 of 2025 and Writ Petition (L) No.22834 of 2025, respectively.

11. We have heard the learned counsel for the parties.

12. The issue to be decided is whether the notices impugned herein are sustainable in law in light of the approval of the Resolution Plan by the NCLT, when such notices are issued for a period prior to the approval of such Plan.

13. It is not in dispute that CIRP proceedings were initiated against the Petitioner by the NCLT on 31st May 2019, and that the said order was later restored by the Hon'ble Supreme Court on 1st August 2022. It is further undisputed that the NCLT, by its order dated 26th April 2024, approved the Resolution Plan submitted by Macrotech Developers Limited.

14. Once a Resolution Plan is approved by the Adjudicating Authority, the said Plan becomes binding on the corporate debtor and all stakeholders, including the Central and State Governments or any local authority, in respect of statutory dues. The Hon'ble Supreme Court in *Ghanshyam Mishra & Sons Pvt. Ltd. (supra)* has categorically held that all claims which are not part of the approved Resolution Plan stand extinguished, and no person is entitled to initiate or continue any proceedings in respect thereof.

15. We may also observe that in the Petitioner's own case, this Court, vide its orders dated 6th August 2025, has already taken a similar view. In that matter, reassessment proceedings initiated under Sections 148A(b), 148A(d), and 148 of the Act for A.Y. 2020-21 were quashed on

the ground that the alleged tax liability pertained to a period prior to the approval of the Resolution Plan dated 26th April 2024. This Court held that allowing the Department to pursue reassessment proceedings for a period prior to the approval of the Resolution Plan would defeat the object of the Insolvency and Bankruptcy Code, 2016, as the successful Resolution Applicant is entitled to revive the corporate debtor on a clean slate basis.

16. The principle laid down in the said judgment squarely applies to the present proceedings, since, the impugned notices under Sections 143(2) and 142(1) of the Act seeks information for the period prior to the approval of the Resolution Plan. Therefore, the issue raised herein is no longer *res integra*.

17. In the present case, the relevant assessment year is A.Y.2024-25, corresponding to the F.Y.2023-24. The Resolution Plan came to be approved on 26th April 2024. Consequently, any liability or proceeding arising out of or relating to a period prior to 26th April 2024, would necessarily stand extinguished upon approval of the Resolution Plan.

18. The Respondents had submitted their claims in respect of Income tax liability pertaining to the A.Y.2018-19 and A.Y.2019-20, as is evident from the list of Operational Creditors (Government dues) submitted by the Resolution Professional to the NCLT on 06th March 2024. However, no claim was filed for the Assessment Year under consideration. In absence of any specific claim for the year under consideration, any subsequent issuance of notice under Section 143(2) or 142(1) of the Act, seeking to scrutinize or assess income for a period forming part of the pre-resolution period, is contrary to the law declared by the Hon'ble Supreme Court in the case of *Ghanshyam Mishra & Sons Pvt. Ltd. (supra)*, *Vaibhav Goel & Anr. (supra)* and by this Court in the Petitioner's own case.

19. In these circumstances, we are of the considered view that the impugned notice dated 24th June 2025 issued under Section 143(2) of the Act and the Notice dated 26th September 2025 issued under Section 142(1) of the Act are unsustainable in law and without jurisdiction, as they seek to reopen or continue proceedings in respect of a period which stood extinguished by virtue of the Resolution Plan approved by the NCLT on 26th April 2024.

20. Accordingly, the above Writ Petition is allowed and the impugned Notice dated 24th June 2025 issued under Section 143(2) of the Act and the Notice dated 26th September 2025 issued under Section 142(1) of the Act and any consequential orders/notices are hereby quashed and set aside.

21. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

22. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]