

**IN THE HIGH COURT OF ANDHRA PRADESH**

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**+ Rev.I.A.No.1 of 2023 in/and W.P.No: 22983 of 2022**

Between:

# Pydah Educational Academy,  
 10-22-07/35, Rednam Gardens,  
 Visakhapatnam-53002.  
 Rep. By its President Mr. Pydah Krishna Prasad  
 S/o. Late Shesha Giri Rao.

... Petitioner  
 (Review Petitioner)

**\$ AND**

- \$ 1. State of Andhra Pradesh rep. By its Principal Secretary, Revenue  
 (Commercial Taxes).  
 2. Deputy Assistant Commissioner (ST)-I, M.G. Road (West Circle),  
 Vizianagaram.  
 3. Joint Commissioner (State Taxes) Vizianagaram District.  
 4. Assistant Commissioner of Commercial Taxes, Rajam Circle,  
 Vizianagaram.  
 5. Sub-Registrar, West & Dasannapeta, Vizianagaram.  
 6. The Commissioner & Inspector General of Registration and Stamps,  
 Edupugallu, Vijayawada.

**...Respondents**

**Date of Judgment pronounced on : 09.05.2025**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**And**

**HON'BLE SRI JUSTICE T. MALLIKHARJUNA RAO**

1. Whether Reporters of Local newspapers : Yes/No  
 May be allowed to see the judgments?  
 2. Whether the copies of judgment may be marked : Yes/No  
 to Law Reporters/Journals:  
 3. Whether The Lordship wishes to see the fair copy : Yes/No  
 Of the Judgment?

**\*IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

**\* HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**And**

**HON'BLE SRI JUSTICE T. MALLIKHARJUNA RAO**

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**.... Respondents**

! Counsel for Petitioner : Sri M. Naga Deepak  
 ^Counsel for Review Petitioner : Sri K. Raghavacharyulu  
 ^Counsel for Respondents: : G.P. for Commercial Tax

<GIST :

>HEAD NOTE:

? Cases referred:

1. (2021) 9 SCC 657
2. (2023) 10 SCC 60

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**  
**&**  
**HON'BLE SRI JUSTICE T. MALLIKHARJUNA RAO**

**I.A.No.1 of 2023**  
**In/and**  
**W.P.No.22983 of 2022**

**ORDER:**

(per Hon'ble Sri Justice R.Raghunandan Rao)

The petitioner herein had purchased an extent of 12000 sq. yards in Sy.Nos.98/1 and 170 of Cantonment Board, Block 2, Vizianagaram Municipality & West Sub-Registration, under a registered deed of sale dated 31.07.2020 from M/s. Sri Lakshmi Srinivas Jute Mills Limited (hereinafter referred to as the Jute Mills). This property had originally been mortgaged with certain banks and financial institutions. On the basis of an understanding between the vendor of the petitioner and these banks and financial institutions, the aforesaid property came to be sold to the petitioner.

2. M/s. Sri Lakshmi Srinivas Jute Mills Limited, on account of its financial difficulties, had defaulted payments to the Commercial Tax Department, in relation to the dues arising out of the A.P. VAT Act, 2005. The Commercial Tax Department, for recovery of its dues, had attached certain properties of the Jute Mills by way of a notice of attachment dated 27.11.2020. The Jute Mills sought to clear the tax dues, by way of installments, and sought such a facility. As this facility was not given, the Jute Mills had approached this Court by way of W.P.No.974 of 2021, which came to be disposed of, on

10.02.2021, permitting the Jute Mills to pay the dues in installments. Pursuant to this order, the Jute Mills addressed a letter to the tax authorities to release attachment of the property of the Jute Mills. After such attachment had been raised, the Jute Mills again sold, to the petitioner, 10,000 sq. yards under a registered deed of sale dated 30.03.2021. Subsequently, the Tax Department again attached the properties of the Jute Mills as tax amounts were not being paid. However, the properties sold to the petitioner were not included in the letter of attachment dated 18.08.2021. Thereafter, the 4<sup>th</sup> respondent-authority, passed an order, dated 20.10.2021, declaring the second deed of sale, dated 30.03.2021, to be null and void. Aggrieved by the said order, the petitioner had moved W.P.No.4847 of 2022.

3. At this Stage, Insolvency proceedings were initiated against the Jute Mills, before the NCLT Bench, Amaravati, under the provisions of the Insolvency and Bankruptcy Code, 2016 (for short 'the IBC'). The 2<sup>nd</sup> respondent, after the initiation of the insolvency proceedings, issued a letter, dated 06.07.2022, to the 5<sup>th</sup> respondent seeking attachment of the entire land of the Jute Mills including the land admeasuring 12000 sq. yards sold to the petitioner, under the deed of sale dated 31.07.2020. The petitioner being aggrieved by the inclusion of 12000 sq. yards, in the order of attachment and subsequent process of recovery, had approached this Court by way of the present writ petition.

4. The prayer in the writ petition is as follows:

“... to issue a writ or order or direction, more particularly in the nature of a writ of Mandamus declaring the letter RR-ActDy.AC(ST)-MG Road West VZM/AEO-2, dated 06.07.2022 issued by the Respondent No.2 to Respondent No.5 attaching the Subject Property admeasuring 12,000 Sq. Yds., in Sy.Nos.98/1 & 170 of Cantonment Ward, Block 2, Vizianagaram Municipality and Vizianagaram West Sub-Registration District, Covered under Document No.4405 of 2020 registered in the office of Joint Sub-Registrar, Vizianagaram as being void, illegal, arbitrary, without jurisdiction and violative of Article 14 and 300A of the Constitution of India and consequently set aside the same and pass such further or other orders as may deem fit and proper.”

4. The petitioner had also taken the stand that the property of the Jute Mills cannot be attached or brought to sale by virtue of Section 60(5) of the IBC.

5. The 2<sup>nd</sup> respondent filed a counter denying these allegations and contending that the property of the petitioner can be attached even after sale to the petitioner. The Division Bench went into the provisions of Sections 25 to 27 of the A.P. VAT Act, 2005, regarding the method of recovery of tax and other dues and held that the action of the respondent-authorities, in seeking to attach the property and taking further steps to sell the property, was in order. The Division Bench, also held that the Corporate Insolvency Resolution Process was still pending, before the NCLT, and that the pendency of such a process would not bar the State from selling the property of the Jute Mills to

recover its dues. Accordingly, the Division Bench dismissed the writ petition, on 08.08.2023.

6. Aggrieved by the said order, the petitioner had approached the Hon'ble Supreme Court by way of S.L.P.(C). No.20536 of 2023. The petitioner had contended, before the Hon'ble Supreme Court, that the entire issue is covered by the judgment of the Hon'ble Supreme Court in the case of **Ghanashyam Mishra and Sons Private Ltd., through the Authorized Signatory vs. Edelweiss Asset Reconstruction Company Ltd., through the Director and Ors.**,<sup>1</sup>. The Hon'ble Supreme Court, by an order dated 25.09.2023, had disposed of the Special Leave Petition, reserving liberty to the petitioner to bring to the notice of the High Court, the facts, raised in the Special Leave Petition, by way of a review petition. The Hon'ble Supreme Court had also observed that if a review petition is filed by the petitioner herein, the same shall be considered in relation to the facts of the case and law.

7. The petitioner has now filed this review petition before this Court. The prayer in the review petition, is as follows:

“....this Hon'ble Court may pleased to Review the Order passed in Writ Petition No.22983 of 2022, dated 08.08.2023 and to pass such other order or orders as this Hon'ble Court may deem fit and proper....”

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<sup>1</sup> (2021) 9 SCC 657

8. Sri K. Raghavacharyulu, learned counsel appearing for the review petitioner, while reiterating the grounds of review, would submit that certain crucial facts had been suppressed by the respondents. He submits that the insolvency process of the Jute Mills, had culminated in an order of approval, of the resolution plan, dated 01.09.2022, passed by the NCLT Bench of Amaravathi, whereunder the State Government had been given the status of an operational creditor and had been awarded a sum of Rs.78,04,413/- as full and final settlement of the claim of Rs.78,04,41,261/-. He would contend that upon such payment, which is admitted, the State cannot make any further claim against the Jute Mills as all the dues are fully and finally settled. Once no further claim can be made, the question of enforcing further action on the assets of the Jute Mills or against the purchasers of such properties would not arise.

9. The learned counsel would rely upon paragraph 5.3.13 of the resolution plan, which states as follows:

“5.3.13 – All claims that may be made against the Corporate Debtor in relation to any payments required to be made by the Corporate Debtor under the Applicable Law or in relation to any breach, contravention or Non-Compliance or breach of any Applicable Law or contract or Permits (whether or not the Creditor was aware of such Claim or such Claim notified to or claimed against the Corporate Debtor at such time), shall immediately, irrevocably and unconditionally stand abated, settled and /or extinguished in perpetuity. No Creditor or Government authority shall have any further rights or claims against the

Corporate Debtor arising from the period prior to the Settlement Date Tranche 1.”

10. The learned counsel would contend that this resolution plan, had been approved, by the NCLT Bench Amaravati, on 01.09.2022 and subsequently, no claim of any nature can be made by the respondents. The learned counsel would also contend that the respondents, being fully aware of the fact that they have no further claim against the Jute Mills or the petitioner, had deliberately suppressed these facts and had resisted W.P.No.22983 of 2022, as if the respondents could continue to recover dues, by attaching or selling the lands sold to the petitioner herein. The learned counsel relies upon the judgment of the Hon'ble Supreme Court in the case of **Paschimanchal Vidyut Vitran Nigam Ltd., vs. Raman Ispat Private Limited & Ors.,<sup>2</sup>; State Tax Officer vs. Rainbow Papers Limited. The judgment in Ghanashyam Mishra and Sons Private Ltd., through the Authorised Signatory vs. Edelweiss Asset Reconstruction Company Ltd., through the Director and Ors.**, cited before the Hon'ble Supreme Court would also have to be considered.

**Consideration of the Court:**

11. The Corporate Insolvency Resolution Process (CIRP for short) which starts with the filing of an application either under sections 7, 9 or 10 of IBC, envisages certain intermediate steps of appointment of an Interim Resolution Professional/Resolution Professional, constitution of the

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<sup>2</sup> (2023) 10 SCC 60

Committee of Creditors, collation of information and calling for applications from interested entities to submit plans for the resolution of the insolvency process, so as to revive the company. The resolution plans submitted by the interested entities would be considered by the Committee of Creditors and a decision would be taken to either accept one of the plans or to go for liquidation of the company. In the present case a resolution plan was accepted and the consequences of such acceptance would be considered. After, the approval of the Committee of Creditors, the plan would be submitted to the Adjudicating authority for approval. The adjudicating authority after considering the plan and verifying whether it is in conformity with the requirements of section 30, more specifically Section 30(2), of IBC would give its approval.

12. The provisions of Section 30 and 31 of IBC are as follows:

**“30. *Submission of resolution plan.*—(1) A resolution applicant may submit a resolution plan along with an affidavit stating that he is eligible under Section 29-A to the resolution professional prepared on the basis of the information memorandum.**

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;

(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than—

(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53; or

(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of Section 53,

whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of Section 53 in the event of a liquidation of the corporate debtor.

*Explanation 1.*—For the removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

*Explanation 2.*—For the purposes of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor—

(i) where a resolution plan has not been approved or rejected by the adjudicating authority;

(ii) where an appeal has been preferred under Section 61 or Section 62 or such an appeal is not time barred under any provision of law for the time being in force; or

(iii) where a legal proceeding has been initiated in any court against the decision of the adjudicating authority in respect of a resolution plan;

(c) provides for the management of the affairs of the corporate debtor after approval of the resolution plan;

(d) the implementation and supervision of the resolution plan;

(e) does not contravene any of the provisions of the law for the time being in force;

(f) conforms to such other requirements as may be specified by the Board.

*Explanation.*—For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six per cent of voting share of the financial creditors, after considering its feasibility and viability the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of Section 53, including the priority and value of the security

interest of a secured creditor, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 (Ord. 7 of 2017), where the resolution applicant is ineligible under Section 29-A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of Section 29-A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of Section 29-A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of Section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section.

Provided also that the eligibility criteria in Section 29-A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 (Ord. 6 of 2018) shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018.

(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the adjudicating authority.

**31. Approval of resolution plan.**—(1) If the adjudicating authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of Section 30 meets the requirements as referred to in sub-section (2) of Section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan:

Provided that the adjudicating authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.

(2) Where the adjudicating authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1),—

(a) the moratorium order passed by the adjudicating authority under Section 14 shall cease to have effect; and

(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency

resolution process and the resolution plan to the Board to be recorded on its database.

(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the adjudicating authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in Section 5 of the Competition Act, 2002 (12 of 2003), the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors.”

13. Section 30 (2) requires that, the Resolution plan, placed for the approval of the Adjudicating Authority, has to set out the payments that would be made to different classes of creditors and that such payments are in accordance with the directions given by the Insolvency and Bankruptcy Board of India. Section 31 states that once a resolution plan has been approved by the Adjudicating Authority, the said plan would be binding on all creditors, including the State and Central Government and their agencies. This would mean that the liability of any creditor would be extinguished upon the payment of the money set out in the resolution plan.

14. This view is fortified by the following extract of the judgment of the Hon'ble Supreme Court, in **Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.,**

**Conclusion**

**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 sub-section (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, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

**102.2.** The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.

**102.3.** Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.

15. In **State Tax Officer vs. Rainbow Papers Limited**, the claim of the tax authorities was rejected by the Resolution Professional and the said dues were not included in the Resolution plan. The Hon'ble Supreme Court had found fault with the non inclusion of the dues of the State, in the resolution plan. The Hon'ble Supreme Court held that such non inclusion was violative of section 30(2) and consequently, the adjudicating authority could not have approved the resolution plan. The relevant extracts are:

**49.** Section 31(1) IBC which empowers the adjudicating authority to approve a resolution plan uses the expression "*it shall by order approve the resolution plan which shall be binding...*" subject to the condition that the resolution plan meets the requirements of sub-section (2) of Section 30. If a resolution plan meets the requirements, the adjudicating authority is mandatorily required to approve the resolution plan. On the other hand, sub-section (2) of Section 31, which enables the adjudicating authority to reject a resolution plan which does not conform to the requirements referred to in sub-section (1) of Section 31, uses the expression "may".

**51.** If the established facts and circumstances require discretion to be exercised in a particular way, discretion has to be exercised in that way. If a resolution plan is ex facie not in conformity with law and/or the provisions of IBC and/or the Rules and Regulations framed thereunder, the Resolution would have to be rejected. It is also a well-settled principle of interpretation that the expression "may", if circumstances so demand can be construed as "shall".

**52.** If the resolution plan ignores the statutory demands payable to any State Government or a legal authority, altogether, the adjudicating authority is bound to reject the resolution plan.

**53.** In other words, if a company is unable to pay its debts, which should include its statutory dues to the Government and/or other authorities and there is no plan which contemplates dissipation of those debts in a phased manner, uniform proportional reduction, the company would necessarily have to be liquidated and its assets sold and distributed in the manner stipulated in Section 53 IBC.

**54.** In our considered view, the Committee of Creditors, which might include financial institutions and other financial creditors, cannot secure their own dues at the cost of statutory dues owed to any Government or Governmental Authority or for that matter, any other dues.

16. In the case before us, the facts are entirely different. The dues of the State were set out in the resolution plan and proportional payment was fixed and paid. There is no challenge to the approval of the resolution plan, by the Adjudicating Authority. Accordingly, the claims of the State stand extinguished. Once such claims have been extinguished, the State cannot seek to recover such extinguished claims, by initiating or continuing coercive process, against the property of the Company, which was subjected to the Insolvency Resolution Process. The Petitioner is one step removed as he is a purchaser of the property of such a company.

17. In view of the above, this application for review is allowed. Consequently, in view of the above discussion, the writ petition is allowed, as prayed for.

Pending applications stand closed.

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**R. RAGHUNANDAN RAO, J.**

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**T. MALLIKHARJUNA RAO, J**

Js.

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**  
**&**  
**HON'BLE SRI JUSTICE T. MALLIKHARJUNA RAO**

**Rev.I.A.No.1 of 2023**  
**In/and**  
**W.P.No.22983 of 2022**

(per Hon'ble Sri Justice R.Raghunandan Rao)

**9<sup>th</sup> May, 2025**

Js.