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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 18.08.2026***
Judgment pronounced on: 02.09.2026
Judgment uploaded on: 02.09.2026

\# **CNR No. DLHC010334532026**

\+ W.P.(C) 10387/2026 and CM APPL. 48073/2026
JAIPRAKASH ASSOCIATES LIMITED .....Petitioner

Through: Mr. Gauhar Mirza, Mr. Syamantak Sen, Mr. Kaveesh Nair, Mr. Jeetendra Vishwakarma & Mr. Tanay Khanna, Advs.

versus

THE OFFICE OF THE COMMISSIONER OF CUSTOMS AIR CARGO COMPLEX IMPORT & ANR. .....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Apurv Yadav and Mr. Naman Choula, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present Writ Petition under Article 226 of the Constitution of India has been preferred by the Petitioner, Jaiprakash Associates Limited, seeking quashing of Order-in-Original No.23/2026-27/ACC Import/2789 dated 02.06.2026 [hereinafter referred to as ‘Impugned Order’] passed by the Additional Commissioner of Customs, Air Cargo Complex (Import), New Delhi. *Vide* the Impugned Order, the

Respondent-Authority has confirmed differential customs duty of Rs.5,89,366/- under Section 28(1) of the Customs Act, 1962 [hereinafter referred to as the 'Customs Act'], ordered recovery of interest under Section 28AA thereof and imposed a penalty of Rs.4,00,000/- under Section 117 of the Customs Act. The demand arises out of the import of Digital and Network Video Recorders by the Petitioner *vide* Bill of Entry No.7856824 dated 15.09.2023.

2. The principal grievance of the Petitioner is not with the classification of the imported goods or the quantum of differential duty in isolation, but with the continuation and culmination of the customs proceedings after commencement and completion of the Corporate Insolvency Resolution Process [hereinafter referred to as 'CIRP'] of the Petitioner. The Petitioner contends that the underlying liability relates to a transaction which admittedly preceded the Insolvency Commencement Date, and that the Customs Department did not submit any claim before the Resolution Professional [hereinafter referred to as 'RP'] during the CIRP. According to the Petitioner, upon approval of the Resolution Plan under Section 31 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as the 'IBC'], such unfiled pre-CIRP claims stood extinguished and could not thereafter form the subject matter of adjudication or recovery proceedings.

3. The Respondents, on the other hand, have proceeded on the basis that the Customs liability in question was never shown to have been placed before or dealt with by the Resolution Professional, the Committee of Creditors [hereinafter referred to as 'CoC'] or the

National Company Law Tribunal [hereinafter referred to as the 'NCLT']. It is the reasoning of the Adjudicating Authority that mere reliance upon the NCLT Order approving the Resolution Plan was insufficient, particularly when the Petitioner had not produced material establishing that the subject customs liability formed part of the claims considered under the Resolution Plan. The Respondent-Authority has further taken note of the fact that the pendency of the CIRP was brought to its notice only at the stage of the final personal hearing.

FACTUAL MATRIX:

4. The facts, insofar as relevant for adjudication of the present controversy, may briefly be noticed.

5. On 15.09.2023, the Petitioner imported Digital and Network Video Recorders, described as AVASYS New Digital Video Recording System with Encoder, at a combined assessable value of Rs.45,40,569/- *vide* Bill of Entry No.7856824. The goods were classified under CTH 85219090 and the Petitioner availed Basic Customs Duty at the rate of 10% under Serial No.499A of CBIC Notification No.50/2017-Customs dated 30.06.2017. The import transaction was thus effected prior to commencement of the CIRP.

6. On 03.06.2024, the NCLT, Allahabad Bench, admitted Company Petition (IB) No.330/ALD/2018, filed by ICICI Bank Limited under Section 7 of the IBC, and commenced CIRP against the Petitioner. The said date constituted the Insolvency Commencement Date. A public announcement inviting claims from creditors was

thereafter issued, and 17.06.2024 was prescribed as the last date for submission of claims under Regulation 12(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [hereinafter referred to as 'CIRP Regulations']. According to the Petitioner, no claim was submitted by the Customs Department within the prescribed period.

7. During the pendency of the CIRP, the Additional Commissioner of Customs issued a Pre-Notice Consultation letter dated 24.07.2025 under Section 28(1) of the Act, alleging that the Digital and Network Video Recorders imported by the Petitioner were not eligible for the benefit of Serial No.499A of Notification No.50/2017-Customs and were liable to Basic Customs Duty at 20% instead of 10%. A short levy of Rs.5,89,366/- was accordingly alleged.

8. Thereafter, Show Cause Notice No.27/2025-26 dated 10.09.2025 [hereinafter referred to as 'SCN'] was issued under Section 28(1) of the Act, proposing rejection of the benefit of Serial No.499A of the aforesaid Notification, recovery of differential customs duty of Rs.5,89,366/- along with interest under Section 28AA of the Act, and imposition of penalty under Sections 112(a)(ii) and/or 117 of the Act. Personal hearings were thereafter scheduled on 29.10.2025, 19.11.2025, 11.02.2026, 19.03.2026 and 19.05.2026.

9. In the meantime, the CoC approved the Resolution Plan submitted by Adani Enterprises Limited on 31.10.2025. The RP thereafter submitted an application under Sections 30(6) and 31(1) of

the IBC before the NCLT seeking approval of the Resolution Plan. The NCLT ultimately approved the Resolution Plan *vide* Order dated 17.03.2026. The Petitioner states that the Resolution Plan thereby became binding under Section 31(1) of the IBC upon the Petitioner and all stakeholders, including governmental authorities to whom statutory dues were owed.

10. On 18.05.2026, the Petitioner addressed written submissions to the Additional Commissioner of Customs, enclosing the NCLT Order dated 17.03.2026. The Petitioner informed the Department that no claim had been submitted by the Customs Department before the RP within the prescribed timelines and relied upon Clause 4.12.1 of the Approved Resolution Plan, under which claims pertaining to the period prior to the CIRP Commencement Date which had not been submitted with the RP, or had been rejected or not verified, were to stand extinguished and become NIL.

11. The Petitioner also relied upon Section 31(1) of the IBC and contended that the Approved Resolution Plan was binding upon the Central Government and other governmental authorities. It was further contended that the Customs Department had failed to submit its claim within the original period prescribed under Regulation 12(1), the extended period under the CIRP Regulations, or the further period contemplated under Regulations 13(1B) and 13(1C).

12. Despite the aforesaid submissions, the Impugned Order dated 02.06.2026 came to be passed. The Respondent-Authority confirmed the differential customs duty of Rs.5,89,366/- under Section 28(1),

directed recovery of interest under Section 28AA and, while declining the penalty proposed under Section 112(a)(ii), imposed a penalty of Rs.4,00,000/- under Section 117 of the Act.

13. In the Impugned Order, the Respondent-Authority recorded that the Petitioner had not produced material demonstrating that the Customs liability had been disclosed before the RP or the NCLT or that the subject demand had formed part of the claims considered and dealt with under the Approved Resolution Plan. The Respondent-Authority further observed that the Petitioner had disclosed the existence of the CIRP to the Department only at the stage of the personal hearing held on 19.05.2026. On that basis, it concluded that mere reliance upon the NCLT Order was insufficient to establish that the Customs proceedings had come to an end.

14. The Impugned Order also records that the authorised representative of the Petitioner had, during the personal hearing, stated that the Petitioner was willing to discharge the dues arising from the SCN and that payment could not be made due to technical difficulties on the ICEGATE portal. The Respondent-Authority, therefore, proceeded to hold that there was no dispute on the merits of the classification or exemption issue and considered the principal controversy to be the effect of the NCLT proceedings and the Approved Resolution Plan.

15. The present Writ Petition came to be instituted thereafter, challenging the Impugned Order principally on the ground that the demand pertains to a pre-CIRP transaction and that the Customs

Department admittedly failed to submit its claim during the CIRP. The Petitioner contends that, by operation of Section 31(1) read with Section 238 of the IBC and Clause 4.12.1 of the Approved Resolution Plan, the liability stood extinguished upon approval of the Resolution Plan and could not thereafter be adjudicated or recovered.

CONTENTIONS OF THE PARTIES:

16. Heard learned Counsel representing the Petitioner and learned Counsel representing the Respondents and perused the pleadings, the Impugned Order and the material placed on record.

17. Learned Counsel representing the Petitioner has made the following submissions:

i. The entire customs liability arises from the import dated 15.09.2023 and thus pertains to a period prior to the Insolvency Commencement Date of 03.06.2024. The Customs Department, despite being an Operational Creditor, admittedly failed to submit any claim before the RP within the prescribed timelines.

ii. Upon approval of the Resolution Plan by the NCLT under Section 31(1) of the IBC, all claims which did not form part of the Resolution Plan stood extinguished. Reliance is placed upon the judgment of the Supreme Court in ***Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.***[1], particularly the principle that statutory dues owed to the Central Government, State

[1] (2021) 9 SCC 657

Government or local authorities, if not forming part of the Resolution Plan, stand extinguished and proceedings in respect thereof cannot continue.

iii. It is submitted that the extinguishment of the Customs claim operates by operation of law and Clause 4.12.1 of the Approved Resolution Plan. The Petitioner cannot be required to establish that the Customs liability was actually placed before the RP, since it was the Customs Department which was required to submit its claim during the CIRP. The Department's failure to do so cannot create a liability against the Petitioner after approval of the Resolution Plan.

iv. Reliance is further placed upon the decisions of this Court in ***National Sewing Thread Company Limited v. Deputy Commissioner of Income Tax & Ors.***[2] and ***Ireo Fiveriver Pvt. Ltd. v. Income Tax Department & Anr.***[3], to contend that once a Resolution Plan is approved, the successful resolution applicant cannot be burdened with liabilities which were not specified or factored into the Resolution Plan. Reliance is also placed upon ***Surya Manufacturing Private Limited v. Assistant Commissioner of Income Tax & Ors.***[4] and ***Garg Inox Ltd. & Anr. v. Union of India & Ors.***[5], stated to have applied the same principle in relation to post-CIRP demands.

[2] 2024 SCC OnLine Del 4426
[3] 2024 SCC OnLine Del 5885
[4] 2025 SCC OnLine Del 3127
[5] 2026 SCC OnLine Del 2581

v. It is further submitted that the present case warrants exercise of writ jurisdiction notwithstanding the availability of a statutory remedy under the Customs Act. Reliance is placed upon ***Ghanashyam Mishra & Sons (P) Ltd.*** *(supra)*, where, according to the Petitioner, the Supreme Court declined to relegate the parties to an alternative remedy in respect of claims which had already stood extinguished under the IBC.

vi. The Petitioner has also relied upon the CBIC Standard Operating Procedure dated 23.05.2022, Instruction No.1083/04/2022-CX09, to submit that the Customs authorities themselves recognise their status as Operational Creditors and the necessity of timely submission of claims during CIRP proceedings.

18. *Per contra*, learned counsel representing the Respondents has made the following submissions:

i. The pendency of CIRP does not bar the Customs Authorities from determining the customs duty, interest or penalty payable by the Corporate Debtor. Reliance is placed upon ***ABG Shipyard Liquidator v. Central Board of Indirect Taxes & Customs***[6], wherein the Supreme Court held that the Customs Authorities can determine the quantum of customs duty, though recovery thereof would remain subject to the provisions of the IBC.

[6] (2023) 1 SCC 472

ii. Pendency of CIRP does not impede framing of an assessment, though recovery of the assessed liability cannot be undertaken contrary to the IBC. In this regard, reference can be made to the decision in ***M/s Rajesh Projects India Ltd. v. Commissioner, Central Tax, Delhi West & Ors.***[7].

iii. The present proceedings concern determination of the differential customs duty arising from the Bill of Entry dated 15.09.2023 and do not, by themselves, constitute recovery proceedings. The Respondents, therefore, contend that the Impugned Order cannot be assailed merely on the ground that the CIRP was pending.

iv. Further, reliance is placed upon the decisions in ***State Tax Officer v. Rainbow Papers Ltd.***[8] to submit that statutory dues cannot be disregarded while considering the effect of a Resolution Plan and that the treatment of such dues has to be examined in the context of the statutory scheme of the IBC and the Resolution Plan.

v. The Petitioner had not established before the Adjudicating Authority that the Customs Department had submitted, or that the subject liability had otherwise formed part of, the claims considered in the CIRP. The Respondents consequently dispute the Petitioner's contention that the liability stood extinguished merely upon approval of the Resolution Plan. The Impugned Order has also noticed that the

[7] W.P.(C) 2647/2023 (DHC)

pendency of the CIRP was brought to the notice of the Department only at the stage of final hearing.

vi. The Petitioner participated in the adjudication proceedings and was afforded repeated opportunities of hearing. The Impugned Order records that the Petitioner's authorised representative had expressed willingness to discharge the dues.

vii. Lastly, insofar as the Petitioner challenges the Impugned Order on merits, an efficacious statutory remedy of appeal is available under the Customs Act. Reliance is placed upon ***M/s Rajesh Projects India Ltd.*** *(supra)*, where this Court declined to entertain the challenge on merits on account of the availability of the statutory appellate remedy.

19. No other submissions have been made by the learned Counsel representing the respective parties at this stage.

ANALYSIS AND FINDINGS:

20. The controversy which arises for consideration is a narrow one. The customs liability sought to be enforced through the Impugned Order arises from an import transaction dated 15.09.2023, which admittedly preceded the Insolvency Commencement Date of 03.06.2024. The question is whether, after commencement of CIRP, approval of the Resolution Plan by the NCLT on 17.03.2026 and the consequent binding effect of the Resolution Plan under Section 31(1)

[8] (2023) 9 SCC 545

of the IBC, the Respondents could continue to adjudicate and enforce a claim which was not submitted before the RP.

21. The answer to the aforesaid question requires the statutory scheme of the IBC to be considered first. The IBC was enacted with the object of consolidating and amending the law relating to insolvency resolution and, importantly, to ensure resolution in a time-bound manner, maximise the value of assets, to promote entrepreneurship, and balance the interests of stakeholders. The scheme is consequently not one which merely provides a forum for recovery of individual debts. It seeks to achieve resolution of the Corporate Debtor as a going concern within a defined and structured process.

22. The expression "claim" assumes central significance in this scheme. Section 3(6) of the IBC defines "claim" as follows:

> *"**3. Definitions***
>
> *In this code, unless the context otherwise requires,-*
>
> *...*
>
> *(6) 'claim' means—*
>
> *(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;*
>
> *(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;*
>
> *..."*

23. The definition is deliberately wide. A "claim" is not confined to a liability which has crystallised into an adjudicated demand or a decree. The legislature has expressly included a right to payment

irrespective of whether it has been reduced to judgment, whether it is fixed or disputed and, in clause (b), whether it is matured or unmatured. The statutory scheme therefore does not contemplate that a creditor can await adjudication of its entitlement and thereafter seek to introduce the resulting liability into a concluded resolution process.

24. From the bare reading of the definition of ‘claim’ in IBC, it becomes evident that the existence of a claim is referable to the underlying right to payment and not merely to the subsequent adjudication or quantification of that right. Thus, the fact that the Customs Department had not, as on the Insolvency Commencement Date, adjudicated the differential duty does not take the underlying customs liability outside the expression “claim” under the IBC.

25. The distinction between “claim” and “debt” is also material. Section 3(11) of the IBC defines “debt” to mean a liability or obligation in respect of a claim which is due from any person and includes financial debt and operational debt. The statutory scheme therefore proceeds from the existence of the underlying claim and does not make its prior adjudication a condition for its recognition in the insolvency process.

26. The aforesaid interpretation is also consistent with the scheme governing submission of claims. Upon commencement of CIRP, the Interim RP is required to make a public announcement inviting claims from creditors. Regulation 6 of the CIRP Regulations requires the public announcement to be made immediately and to be published in an English and a regional language newspaper with wide circulation,

besides being hosted on the website of the Corporate Debtor and the website designated by the Board. The announcement is also required to specify the last date for submission of proofs of claim.

27. The statutory mechanism thus does not proceed on the basis that the Corporate Debtor must individually approach every possible creditor and inform such creditor of the commencement of CIRP. The legislature has prescribed a public mechanism precisely for this purpose. In the present case, the Public Announcement was admittedly issued on 06.06.2024 and 17.06.2024 was prescribed as the last date for submission of claims. The record further establishes that the Customs Department did not submit any claim before the RP within the prescribed period.

28. The Respondents have sought to contend that the Customs Department was not separately informed of the CIRP. The contention cannot be accepted. Once the statutory mechanism of public announcement has been followed, there is no further requirement shown to have been imposed upon the Corporate Debtor to individually notify every statutory authority which may potentially have a claim against it. The responsibility of identifying and filing its claim lies upon the creditor. The Respondents cannot, therefore, rely upon an alleged absence of individual intimation to overcome their failure to participate in the statutory process.

29. More importantly, the present claim was not even an unknown or subsequently arising liability. The underlying transaction had already taken place on 15.09.2023. The customs authorities were,

therefore, dealing with a transaction which preceded the Insolvency Commencement Date by several months. The subsequent issuance of the Pre-Notice Consultation letter on 24.07.2025 and the SCN on 10.09.2025 did not alter the character of the underlying liability for purposes of the IBC.

30. The importance of the aforesaid statutory scheme becomes clearer when Section 31(1) of the IBC is considered. The provision, in its present form, reads as under:

> *"**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."*

31. The reference to the Central Government, State Governments and local authorities was introduced by the Insolvency and Bankruptcy Code (Amendment) Act, 2019 [hereinafter referred to as '2019 Amendment'].

32. The 2019 Amendment assumes significance in the present controversy. It expressly brought governmental authorities to whom statutory dues are owed within the class of persons upon whom an approved Resolution Plan is binding. The said amendment was

considered by the Supreme Court in ***Ghanashyam Mishra & Sons (P) Ltd.*** *(supra)*, where the Court explained that the legislative intent was to ensure that claims are frozen upon approval of the Resolution Plan and that the Successful Resolution Applicant is able to commence business on a clean slate. The judgment also treated the amendment as declaratory and clarificatory in nature. The relevant portion of the said decision is extracted hereinbelow for ready reference:

> *"**93.** As discussed hereinabove, one of the principal objects of the I&B Code is providing for revival of the corporate debtor and to make it a going concern. The I&B Code is a complete Code in itself. Upon admission of petition under Section 7 there are various important duties and functions entrusted to RP and CoC. RP is required to issue a publication inviting claims from all the stakeholders. He is required to collate the said information and submit necessary details in the information memorandum. The resolution applicants submit their plans on the basis of the details provided in the information memorandum. The resolution plans undergo deep scrutiny by RP as well as CoC. In the negotiations that may be held between CoC and the resolution applicant, various modifications may be made so as to ensure that while paying part of the dues of financial creditors as well as operational creditors and other stakeholders, the corporate debtor is revived and is made an on-going concern. 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 sub-section (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 the 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.***
>
> ***94. We have no hesitation to say that the words "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature noticing that on account of obvious omission certain tax authorities were not abiding by the mandate of the I&B Code and continuing with the proceedings, has brought out the 2019***

<u>Amendment so as to cure the said mischief. We therefore hold that the 2019 Amendment is declaratory and clarificatory in nature and therefore retrospective in operation.</u>

***

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.* ***<u>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.</u>***

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. ***<u>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.</u>****"*

(Emphasis supplied.)

33. The same principles have been noticed by this Court in ***Ireo Fiveriver Pvt. Ltd.*** *(supra)*, while relying upon the decision of the Supreme Court in ***Ghanashyam Mishra & Sons (P) Ltd.*** *(supra)* and ***Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta***[9]. The relevant extracts of the same is reproduced hereinbelow:

*"**4.** We also take note of the identical position which was expressed by the Supreme Court in Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta, [(2020) 8 SCC*

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[9] (2020) 8 SCC 531

531] where the following pertinent observations came to be made:—

"105. *<u>Section 31(1) of the Code makes it clear that once a resolution plan is approved by the Committee of Creditors it shall be binding on all stakeholders, including guarantors. This is for the reason that this provision ensures that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate as it were.</u> In SBI v. V. Ramakrishnan, (2018) 17 SCC 394, this Court relying upon Section 31 of the Code has held:*

> *"25. Section 31 of the Act was also strongly relied upon by the respondents. This section only states that once a resolution plan, as approved by the Committee of Creditors, takes effect, it shall be binding on the corporate debtor as well as the guarantor. This is for the reason that otherwise, under Section 133 of the Contract Act, 1872, any change made to the debt owed by the corporate debtor, without the surety's consent, would relieve the guarantor from payment. Section 31(1), in fact, makes it clear that the guarantor cannot escape payment as the resolution plan, which has been approved, may well include provisions as to payments to be made by such guarantor. This is perhaps the reason that Annexure VI(e) to Form 6 contained in the Rules and Regulation 36(2) referred to above, require information as to personal guarantees that have been given in relation to the debts of the corporate debtor. Far from supporting the stand of the respondents, it is clear that in point of fact, Section 31 is one more factor in favour of a personal guarantor having to pay for debts due without any moratorium applying to save him.*

106. *Following this judgment in SBI v. V. Ramakrishnan, (2018) 17 SCC 394, it is difficult to accept Shri Rohatgi's argument that that part of the resolution plan which states that the claims of the guarantor on account of subrogation shall be extinguished, cannot be applied to the guarantees furnished by the erstwhile Directors of the corporate debtor. So far as the present case is concerned, we hasten to add that we are saying nothing which may affect the pending litigation on account of invocation of these guarantees. However, Nclat judgment being contrary to Section 31(1) of the Code and this Court's judgment in SBI v. V. Ramakrishnan, (2018) 17 SCC 394, is set aside.*

107. *For the same reason, the impugned Nclat judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be* *decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. 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 popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, Nclat judgment must also be set aside on this count.*

5. In view of the aforesaid principles, the successful resolution applicant cannot be foisted with any liabilities other than those which are specified and factored in the Resolution Plan and which may pertain to a period prior to the resolution plan itself having been approved*.*

(Emphasis supplied.)

34. Similarly, in ***Vaibhav Goel & Anr. v. Deputy Comissioner of Income Tax & Anr.***[10], the Supreme Court re-iterated the same line of reasoning. The relevant paragraph of the aforesaid judgment is produced below:

"In view of the declaration of law made by this Court, all the dues including the statutory dues owed to the Central Government, if not a part of the Resolution Plan, shall stand extinguished and no proceedings could be continued in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 of the IB Code. In this case, the income tax dues of the CD for the assessment years 2012-13 and 2013-14 were not part of the approved Resolution Plan. Therefore, in view of sub-section (1) of Section 31, as interpreted by this Court in the above decision, the dues of the first respondent owed by the CD for the assessment years 2012-13 and 2013-14 stand extinguished. "

35. Therefore, the expression "binding" occurring in Section 31(1) of the IBC cannot be treated as a mere procedural consequence of

[10] 2025 INSC 375

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approval. It gives finality to the treatment of claims under the Resolution Plan. Once the Adjudicating Authority approves the plan, the Corporate Debtor, its creditors and the governmental authorities specifically included within Section 31(1) are bound by the treatment accorded to the claims under that plan.

36. As noticed hereinabove, this principle has been consistently recognised by the Supreme Court. The Court has explained that Section 31(1) of the IBC ensures that the Successful Resolution Applicant takes over the business of the Corporate Debtor on a fresh slate. The rationale is that the Resolution Applicant must be able to determine the liabilities which it is undertaking on the basis of the Resolution Plan and cannot thereafter be confronted with undisclosed claims. The Resolution Plan is thereafter formulated on the basis of the liabilities which emerge through that process. Once the plan is approved, the claims stand frozen so that the Successful Resolution Applicant is not subsequently confronted with "surprise claims".

37. The consequence is therefore not dependent upon whether the creditor had consciously agreed to the extinguishment of its claim. The binding character of the Resolution Plan arises by operation of Section 31(1) of the IBC. The creditor's failure to submit its claim cannot have the effect of taking the claim outside the insolvency process and preserving an independent right to proceed against the Corporate Debtor after approval of the plan.

38. The position is reinforced by Section 238 of the IBC, which contains an express *non-obstante* clause and gives the IBC overriding

effect in the event of inconsistency with another law. The same is extracted hereinbelow:

> *"The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."*

39. This Court is also mindful of the fact that the Customs Act is undoubtedly a special enactment governing the levy, assessment and collection of customs duties. However, the issue before this Court is not whether the Customs Act confers power upon the Respondent-Authority to determine a customs liability in the ordinary course. The issue is whether such power can be exercised in a manner which defeats the statutory consequences flowing from the IBC after approval of a Resolution Plan. In case of an inconsistency between the two statutory regimes, Section 238 requires the provisions of the IBC to prevail.

40. This distinction was considered by the Supreme Court in ***ABG Shipyard*** *(supra)*. The Court recognised that the Customs authorities could determine the quantum of customs duty and other statutory dues, but could not proceed to enforce recovery contrary to the moratorium and the scheme of the IBC. The Court harmonised the two enactments by permitting the determination of the liability while restricting its enforcement in accordance with the IBC.

41. The decision in ***ABG Shipyard*** *(supra)* is therefore not authority for the proposition that a customs authority may continue indefinitely with proceedings concerning a pre-CIRP liability irrespective of what subsequently transpires in the CIRP. It recognises

the limited power to determine liability during the insolvency process. The position after approval of the Resolution Plan stands on a different footing because Section 31(1) of the IBC then gives finality to the treatment of claims and makes the plan binding upon governmental authorities as well. The distinction between determination and enforceability is therefore material.

42. This Court is also mindful of the decision in ***M/s Rajesh Projects India Ltd.*** *(supra)*, relied upon by the Respondents. The said decision recognised that pendency of CIRP does not, by itself, prevent the competent authority from framing an assessment, although recovery cannot be undertaken contrary to the IBC. The decision, however, does not concern the consequence of an approved Resolution Plan upon a claim which was not submitted during CIRP. The question in the present case arises at a subsequent stage and is governed by Section 31(1) read with Section 238 of the IBC.

43. The Respondents have also relied upon ***Rainbow Papers Ltd.*** *(supra)* to contend that statutory dues cannot simply be disregarded in the insolvency process. The reliance, however, cannot carry the Respondents beyond the proposition actually laid down in that decision. The observations in ***Rainbow Papers Ltd.*** were subsequently considered by the Supreme Court in ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd.***[11]. The latter decision expressly confined the observations in ***Rainbow Papers*** to the facts and

[11] (2023) 10 SCC 60

statutory setting which arose before the Court. The relevant extracts of the same is reproduced hereinbelow:

> *"52.__**PVVNL had relied upon the decision in Rainbow Papers [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] . In that case, the issue involved was interpretation of Section 48 of the Gujarat Value Added Tax Act, 2003 which enacted that any amount payable towards tax or penalty by any person would constitute a "first charge" on the property of such dealer or person. The corporate debtor had defaulted in payment of its tax dues and recovery proceedings had been initiated. In the meanwhile, insolvency proceedings had commenced. During the resolution process, the State tax authorities claimed that the dues payable had to be accrued previously and relied upon Section 48, in addition to Section 53 IBC. The State contended that the non obstante clause in the State enactment and the non obstante clause in IBC operated at different fields, and the State had to be treated as a "secured creditor" by virtue of Section 48 of the State Act. This was rejected by the NCLT**__ [Ramachandra D. Choudhary v. Indian Overseas Bank (CoC), 2019 SCC OnLine NCLT 6672] and NCLAT [Tourism Finance Corpn. of India Ltd. v. Rainbow Papers Ltd., 2019 SCC OnLine NCLAT 910] . However, this Court took note of Sections 30 and 31 IBC and certain other provisions and held that NCLT had erred in its observations. It was held that : (Rainbow Papers case [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] , SCC p. 569, paras 56-58)*
>
> *"56. Section 48 of the GVAT Act is not contrary to or inconsistent with Section 53 or any other provisions of IBC. Under Section 53(1)(b)(ii), the debts owed to a secured creditor, which would include the State under the GVAT Act, are to rank equally with other specified debts including debts on account of workman's dues for a period of 24 months preceding the liquidation commencement date.*
>
> *57. As observed above, the State is a secured creditor under the GVAT Act. Section 3(30) IBC defines secured creditor to mean a creditor in favour of whom security interest is credited. Such security interest could be created by operation of law. The definition of "secured creditor" in IBC does not exclude any Government or Governmental Authority.*
>
> *58. We are constrained to hold that the appellate authority (NCLAT) and the adjudicating authority erred in law in rejecting the application/appeal of the appellant. As observed above, delay in filing a claim cannot be the sole ground for rejecting the claim."*

__53.__ Rainbow Papers [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] did not notice the "waterfall mechanism" under Section 53—the provision had not been adverted to or extracted in the judgment. Furthermore, Rainbow Papers [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] was in the context of a resolution process and not during liquidation. Section 53, as held earlier, enacts the waterfall mechanism providing for the hierarchy or priority of claims of various classes of creditors. The careful design of Section 53 locates amounts payable to secured creditors and workmen at the second place, after the costs and expenses of the liquidator payable during the liquidation proceedings. However, the dues payable to the government are placed much below those of secured creditors and even unsecured and operational creditors. This design was either not brought to the notice of the Court in Rainbow Papers [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] or was missed altogether. ***<u>In any event, the judgment has not taken note of the provisions of IBC which treat the dues payable to the secured creditors at a higher footing than dues payable to the Central or the State Government.</u>***

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__58.__ In view of the above discussion, it is held that the reliance on Rainbow Papers [STO v. Rainbow Papers Ltd., (2023) 9 SCC 545] is of no avail to the appellant. ***<u>In this Court's view, that judgment has to be confined to the facts of that case alone.</u>****"*

(Emphasis supplied.)

44. The subsequent jurisprudence therefore does not support a general proposition that statutory dues enjoy a status which permits them to be enforced outside the framework of the IBC. The IBC itself expressly recognises governmental authorities within Section 31(1) of the IBC. The question is consequently not whether statutory dues are capable of constituting claims, but whether the particular statutory dues have been dealt with in the insolvency process and what consequence follows from their omission upon approval of the Resolution Plan.

45. The Respondents' reliance upon the fact that the Customs liability was not before the NCLT also does not advance their case.

The very purpose of the claim-submission process is to enable the RP to collate claims and enable the Resolution Applicant and the CoC to take them into account. If a creditor elects not to submit its claim despite the public announcement and the further statutory opportunities available under the CIRP Regulations, the absence of that claim from the material placed before the NCLT cannot subsequently be converted into a reason for permitting that creditor to proceed independently.

46. The Approved Resolution Plan in the present case goes even further. Clause 4.12.1 specifically provides for claims pertaining to the period prior to the CIRP Commencement Date which have not been submitted with the Resolution Professional, or have been submitted and rejected or not verified. Such claims are expressly stipulated to stand extinguished and become NIL upon approval of the Resolution Plan. The Petitioner specifically brought this provision to the notice of the Respondent-Authority on 18.05.2026 along with the NCLT Order dated 17.03.2026.

47. The Respondents' contention that the Petitioner was required to establish that the Customs liability had been placed before the RP, therefore, proceeds on an incorrect premise. The question is not whether the Customs liability was considered by the RP despite the Customs Department not filing a claim. The question is whether the Customs Department had a claim arising from a pre-CIRP transaction and whether it availed the statutory mechanism for submitting that claim. The answer to both questions is clear.

48. The underlying import was made on 15.09.2023. The CIRP commenced on 03.06.2024. The Public Announcement was issued on 06.06.2024. No claim was submitted by the Customs Department. The CoC approved the Resolution Plan on 31.10.2025 and the NCLT approved it on 17.03.2026. These facts are not materially disputed.

49. The subsequent issuance of the SCN on 10.09.2025 cannot alter this position. By that date, the CIRP had already been pending for more than a year and the statutory process for submission and verification of claims had been underway. The SCN itself could not create a new liability for purposes of the IBC merely because the Customs Department had chosen to adjudicate the underlying transaction at a later stage. A claim under Section 3(6) of the IBC is not rendered a post-CIRP claim merely because its quantification or adjudication takes place subsequently.

50. The Respondents have placed emphasis on the fact that the pendency of CIRP was brought to their notice only during the final hearing. This circumstance also cannot alter the statutory consequence. The obligation to submit the claim arises from the commencement of CIRP and the public announcement, and not from receipt of a personal communication from the Corporate Debtor. The statutory scheme provides an independent mechanism for the creditor to submit its claim. The record demonstrates that the Respondents did not avail that mechanism.

51. There is another aspect which cannot be overlooked. The Resolution Plan was not merely approved by the CoC, it was

subsequently approved by the NCLT under Section 31(1) of the IBC. The approval therefore attracted the statutory consequence of binding all persons falling within the ambit of Section 31(1), expressly including the Central Government and authorities to whom statutory dues are owed. The Respondent-Authority cannot, therefore, proceed on the footing that its statutory power under the Customs Act remains wholly unaffected by the subsequent approval of the Resolution Plan.

52. The argument based upon the availability of an appeal under the Customs Act must also be considered in this context. Ordinarily, this Court would be slow to entertain a challenge to an adjudication order where an efficacious statutory appellate remedy is available. However, the present challenge does not principally concern the correctness of classification, valuation or the quantum of customs duty. The central issue is whether, in view of the IBC and the approved Resolution Plan, the Respondent-Authority could continue with the proceedings in respect of a pre-CIRP claim which had not been submitted during the CIRP.

53. The existence of an appellate remedy under the Customs Act cannot require the Petitioner to pursue a remedy under a statute which, in the particular circumstances, is itself subject to the overriding provisions and consequences of the IBC. The question of the binding effect of an approved Resolution Plan and the extinguishment of claims thereunder goes to the jurisdiction and legal authority to continue the proceedings. The present case, therefore, falls outside the ordinary category of a challenge merely directed against the merits of assessment.

54. The statement attributed to the authorised representative of the Petitioner during the personal hearing that the Petitioner was willing to discharge the dues also does not conclude the matter. An observation made during adjudication proceedings, particularly when the principal issue concerning the effect of the CIRP and the Resolution Plan was being raised, cannot confer jurisdiction upon the Respondent-Authority to enforce a liability which has otherwise ceased to be enforceable by operation of the IBC. The legal consequence of Section 31(1) cannot be waived or defeated by an isolated statement made during personal hearing.

55. The object of the IBC would be defeated if a creditor, including a statutory authority, were permitted to stand outside the CIRP, await adjudication of a pre-CIRP liability and thereafter seek enforcement against the resolved Corporate Debtor. Such a course would expose the Successful Resolution Applicant to liabilities which were not capable of being ascertained from the claims forming the basis of the Resolution Plan. It would equally defeat the finality which Section 31(1) seeks to confer upon an approved Resolution Plan. The legislative intent, as noticed by the Supreme Court, is to freeze the claims so that the Successful Resolution Applicant can commence the business on a clean slate.

56. It follows that the Customs Department was entitled, during the CIRP, to determine the liability arising from the import transaction in accordance with the Customs Act, subject always to the IBC. But once the Resolution Plan came to be approved by the NCLT and became binding under Section 31(1), the Respondent-Authority could not

continue to enforce against the Corporate Debtor a pre-CIRP claim which had not been submitted in the CIRP and which stood extinguished under the Approved Resolution Plan.

57. The Impugned Order was passed on 02.06.2026, i.e. after the NCLT had approved the Resolution Plan on 17.03.2026 and after the Petitioner had expressly brought the said approval and Clause 4.12.1 to the notice of the Respondent-Authority on 18.05.2026. The Respondent-Authority was thus required to consider the statutory consequences of Section 31(1) read with Section 238 of the IBC before proceeding to confirm the demand.

58. Instead, the Impugned Order proceeds substantially on the premise that the Petitioner had not established that the Customs liability had been disclosed before the RP or had formed part of the claims considered under the Resolution Plan. That approach reverses the statutory scheme. The relevant inquiry was whether the Customs Department had submitted its claim pursuant to the public announcement and within the opportunities available under the CIRP Regulations. It admittedly had not.

59. The failure of the Respondents to submit their claim cannot, in the circumstances, operate to the prejudice of the Corporate Debtor or the Successful Resolution Applicant. The IBC does not contemplate that a creditor who fails to participate in the CIRP acquires a superior position after its conclusion. On the contrary, the consequence of the statutory process is that the Resolution Plan, once approved, becomes

binding and the claims not forming part of the plan cannot subsequently be enforced so as to disturb the resolution.

60. This Court is therefore of the view that the Impugned Order cannot be sustained insofar as it confirms the differential customs duty, interest and penalty in respect of the pre-CIRP transaction. The Respondent-Authority could not, after approval of the Resolution Plan and extinguishment of the unfiled pre-CIRP claim, proceed to impose a liability upon the Corporate Debtor contrary to Section 31(1) read with Section 238 of the IBC.

61. The conclusion reached herein does not mean that the Customs Act ceases to apply to the Corporate Debtor or that Customs Authorities are divested of their statutory power to assess transactions. The conclusion is confined to the consequence which the IBC attaches to a claim arising prior to the Insolvency Commencement Date once the Resolution Plan has been approved. The Customs Act and the IBC operate in their respective fields, where the exercise of power under the Customs Act comes into conflict with the binding consequences of an approved Resolution Plan, Section 238 gives precedence to the IBC.

62. In view of the aforesaid conclusion, it is not necessary for this Court to examine the merits of the classification adopted by the Respondent-Authority or the computation of differential customs duty. Those issues have become academic in view of the conclusion that the underlying pre-CIRP claim could not be enforced after approval of the Resolution Plan.

CONCLUSION:

63. For the aforesaid reasons, the Writ Petition succeeds. The Impugned Order-in-Original dated 02.06.2026 is hereby quashed and set aside.

64. It is, however, clarified that this Court has not expressed any opinion on the merits of the classification of the imported goods or the eligibility of the Petitioner for the benefit of Serial No.499A of Notification No.50/2017-Customs. The Impugned Order is being set aside on the ground that the liability arising from the pre-CIRP transaction could not be adjudicated and enforced against the Petitioner after approval of the Resolution Plan in the facts and circumstances noticed hereinabove.

65. The Writ Petition is accordingly allowed. Pending application also stands disposed of. There shall be no order as to costs.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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