CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHENNAI</u>

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40693 of 2017

(Arising out of Order-in-Appeal C.Cus.II No. 888/2015 dated 03.09.2015 passed by the Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Reliance Communications Infrastructure Ltd. **...Appellant**
BHQ, Dhirubhai Ambani Knowledge City,
Thane-Bellapur Road,
Koparkhairane,
Mumbai – 400 701.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

<u>APPEARANCE:</u>

For the Appellant : None
For the Respondent : Mr. Anoop Singh, Authorised Representative

<u>CORAM:</u>
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

<u>FINAL ORDER No. 40992 / 2026</u>

DATE OF HEARING : 28.08.2026
DATE OF DECISION : 07.09.2026

Per Mr. AJAYAN T.V.

Today when the matter was called, none appeared for the appellant.

2. The mater came up for hearing on 29.06.2026, 17.07.2026 and on 21.08.2026 earlier. On the last occasion, the Ld. Authorized Representative Shri Anoop Singh appearing for the Revenue had stated that CIRP proceedings were initiated and that Orders on the NCLT Website indicate that the Company's resolution plan has been approved and sought time to submit copy of the same. The matter was thus, adjourned to today.

3. The Ld. Authorized Representative Shri Anoop Singh has today submitted a copy of the order delivered on 19.12.2023 in IA No. 2429 of 2021 moved in CP (IB) No. 3025/2019 in the matter of State Bank of India Vs. Reliance Communications Infrastructure Limited. On perusal of the order of the NCLT dated 19.12.2023, it is seen that the application was moved by Resolution Professional Mr. Anish Niranjan Nanavaty for seeking approval of the resolution plan of Reliance Projects & Property Management Services Limited (hereafter called as the "Successful Resolution Applicant/SRA") under the provisions of Section 31(1) of the code, for resolution of Reliance Communications Infrastructure Limited (hereinafter called as the "Corporate Debtor") and for passing order/ appropriate direction that this Tribunal may deem fit in the present matter.

4. NCLT *vide,* the said order, at paragraph No. 41, *inter alia,* held as under: -

> *"41. The Resolution Plan along with the Addendum thereto annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order with the following directions:*
>
> *i. It shall be binding on the Corporate Debtor, 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 is due, guarantors and other stakeholders involved in the Resolution Plan.*
>
> *ii. ……."*

5. At this juncture, it is apposite to note the decision of the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd, reported in [2021] 13 S.C.R 737***. The Apex Court has framed the questions that has arisen for consideration by the Court as under: -

> *"2. The short but important questions, that arise for consideration in this batch of matters, are as under:-*
>
> (i) *As to whether any creditor including the Central Government, State Government or any local authority is bound by the Resolution Plan once it is approved by an adjudicating authority under sub-section (1) of Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code')?*
>
> (ii) *As to whether the amendment to Section 31 by Section 7 of Act 26 of 2019 is clarificatory/declaratory or substantive in nature?*
>
> (iii) *As to whether after approval of resolution plan by the Adjudicating Authority a creditor including the Central Government, State Government or any local authority is entitled to initiate any proceedings for recovery of any of the dues from the Corporate*

Debtor, which are not a part of the Resolution Plan approved by the adjudicating authority?"

6. Thereafter, the Hon'ble Apex Court has gone on to analyse the various precedents. After extensive deliberations on the relevant provisions of IBC, the Apex Court has gone on to hold as under: -

" 91. It is a cardinal principle of law, that a statute has to be read as a whole. Harmonious construction of sub-section (10) of Section 3 of the I&B Code read with sub-sections (20) and (21) of Section 5 thereof would reveal, that even a claim in respect of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority would come within the ambit of 'operational debt'. The Central Government, any State Government or any local authority to whom an operational debt is owed would come within the ambit of 'operational creditor' as defined under sub-section (20) of Section 5 of the I&B Code. Consequently, a person to whom a debt is owed would be covered by the definition of 'creditor' as defined under sub-section (10) of Section 3 of the I&B Code. As such, even without the 2019 amendment, the Central Government, any State Government or any local authority to whom a debt is owed, including the statutory dues, would be covered by the term 'creditor' and in any case, by the term 'other stakeholders' as provided in sub-section (1) of Section 31 of the I&B Code.

92. The Division Bench of the Rajasthan High Court in D.B. Civil Writ Petition No.9480 of 2019 in the case of ***Ultra Tech Nathdwara Cement Ltd. vs. Union of India & Ors.****, by judgment and order dated 7.4.2020 has taken a view, that the demand notices, issued by the Central Goods and Service Tax Department, for a period prior to the date on which NCLT has granted its approval to the resolution plan, are not permissible in law. While doing so, the Rajasthan High Court has relied on the judgment of this Court in the case of* ***Committee of Creditors of Essar Steel India Limited through Authorised Signatory*** *(supra).*

93. The Calcutta High Court in the case of ***Akshay Jhunjhunwala & Anr. vs. Union of India through the Ministry of Corporate Affairs & Ors.35*** *has also taken a view, that the claim of operational creditor will also include a claim of a statutory authority on account of money receivable pursuant to an imposition by a statute. We are in agreement with the views taken by these Courts.*

94. Therefore, in our considered view, the aforesaid provisions leave no manner of doubt to hold, that the 2019 amendment is declaratory and clarificatory in nature. We also hold, that even if 2019 amendment was not effected, still in light of the view taken by us, the Central Government, any State Government or any local authority would be bound by the resolution plan, once it is approved by the Adjudicating Authority (i.e. NCLT).

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

(i) *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, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not 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;*

(ii) *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 I&B Code has come into effect;*

(iii) *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 their approval under Section 31 could be continued."*

7. It is clear from the aforesaid Judgement that once the Resolution Plan is approved by the Adjudicating Authority under Section 31 (1) of Insolvency and Bankruptcy Code 2016 (IBC), then "no person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan''. We make it clear that neither side has informed us as to whether or not the statutory dues owed to the Central Government, under contest in this appeal before us, are part of the said resolution plan or not. Be that as it may, as the conclusions of the Apex Court has also elucidated that 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 their approval under Section 31 could be continued, to our mind, it is clear that, in any event, the present proceedings in this appeal cannot be continued before us. Ordered accordingly.

The appeal stand disposed of in these terms.

(Order pronounced in open court on 07.09.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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