



2026:DHC:8694



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: September 30th, 2026

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CNR No. DLHC010212082026

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W.P.(C) 6553/2026 & CM APPL. 32339/2026**WAAREE TRANSPower PRIVATE LIMITEDPetitioner**

Through: Mr. Jeevesh Nagrath, Sr. Adv.
with Mr. Dhiraj Abraham
Philips, Mr. Febin Mathew
Varghese, Ms. Soyarchon
Khangrah & Ms. Bhavika
Sharma, Advs.

versus

UNION OF INDIA & ANR.**.....Respondents**

Through: Mr. Shankar Kumar Jha, SPC
with Mr. Malay Dixit, Legal
Officer

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed challenging the continued operation of *Denied Entry List* (“**DEL**”) status imposed upon the Petitioner’s Importer Exporter Code (“**IEC**”) No. 0296013242 *vide* multiple impugned orders dated 05.04.2023 and 05.09.2023.

2. It is the case of the petitioner that, the aforesaid orders were issued in relation to various Advance Authorisations and EPCG Authorisations granted to the Petitioner, on account of alleged non-fulfilment of export obligations and/or non-submission of documents evidencing discharge of such obligations. The *DEL* proceedings arose from the alleged defaults in respect of these authorisations, pertaining to the Petitioner's manufacturing units at Agra, Uttar Pradesh and Alwar, Rajasthan. The consequence of the *DEL* status is that the

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Petitioner is denied the issuance or renewal of certain licences, authorisations and allied benefits under the applicable foreign trade regime, thereby paralyzing its export-import operations.

3. The Petitioner's principal grievance is that the Corporate Insolvency Resolution Process ("**CIRP**"), in respect of the Petitioner (*formerly Kotsons Private Limited*), had commenced *vide* order dated 09.06.2023. Prior to and during the process, the impugned *DEL* orders were issued placing the Petitioner on the *DEL* due to pre-CIRP defaults of the erstwhile management.

4. According to the Petitioner, Respondents had themselves submitted its claim as an *Operational Creditor (Government Dues)* in FORM-B dated 19.09.2023 before the Resolution Professional. This claim, quantified at approximately ₹15.66 Crores, directly pertained to the duty saved amounts, interest, and penalties arising from non-fulfilment of export obligations under the very same Advance and EPCG Authorisations that form the basis of the impugned *DEL* orders.

5. The Petitioner further states that, during CIRP, the Resolution Plan under the Insolvency and Bankruptcy Code, 2016 ("**IBC**") submitted by the Petitioner was approved by the Committee of Creditors with 100% voting share. The said Resolution Plan came to be approved by the learned National Company Law Tribunal, New Delhi ("**NCLT**") *vide* Order dated 02.08.2024 passed in IA No. 25/2024 in CP (IB) No. 761(ND)/2022. Under the approved Resolution Plan, the claims of statutory and government authorities, including those of the Respondents, stood settled at *Nil*.

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6. It has thus been urged that the same demonstrates that liabilities, which were the basis of imposing the status of *DEL*, pre-CIRP, stood extinguished upon approval of the aforesaid Resolution Plan and the consequent change in management/control of the Petitioner. The Petitioner states, that it submitted representations starting September 2025 apprising the Respondents of the learned NCLT approval order and seeking removal of the *DEL* status. However, despite repeated representations, the Respondents failed to remove the DEL status.

7. This Court *vide* interim order dated 26.05.2026, had permitted the Petitioner to execute/implement/adhere to a supply order dated 17.12.2025 (revised on 09.02.2026), which had been received by the Petitioner but could not be acted upon on account of it being placed in the *DEL*. The Union of India had challenged the same by way of LPA No. 531/2026, which was disposed of as withdrawn, *vide* order dated 20.07.2026, without expressing any opinion on the merits of the case, with cost of Rs. 50,000/- having been imposed upon the Union of India on account of its failure to file reply despite opportunity.

8. Even before this Court, despite being granted time to obtain instructions specifically on the merits of the case, nothing has been argued on merits by the Respondent and only preliminary/technical objections such as lack of territorial jurisdiction and existence of an alternate remedy have been agitated.

9. As regards the objection of territorial jurisdiction, the Petitioner has relied upon e-mail dated 27.04.2026 of the Office of the Joint Director General of Foreign Trade, Kanpur, whereby the Petitioner

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was informed that the case is pending consideration before the Directorate General of Foreign Trade Headquarters, New Delhi and the Office is further awaiting instructions. Then a representation dated 30.04.2026 was preferred by the Petitioner before the DGFT Headquarters and the same remained undecided, which led to filing of the present writ petition. Hence, the same shows that DGFT Headquarters, New Delhi was seized of the matter and was the final decision-making authority and the grievance of the Petitioner is partly attributable to the continued inaction of the authorities situated in Delhi. Hence, it cannot be said that only the Courts situated in Kanpur/Uttar Pradesh would have the requisite jurisdiction.

10. On the aspect of availability of an alternate remedy, it is well-settled that a writ is maintainable even if an alternate remedy exists and the existence of such remedy does not strip away the constitutional powers of this Court.

11. The objection of non-impleadment of DGFT, Kanpur is also not sustainable as the Counter Affidavit filed on behalf of Respondent No. 1/ Union of India and Respondent No. 2/ DGFT Headquarters, Delhi, has been filed by Mr. Alok Dwivedi, Joint Director General of Foreign Trade in the Office of DGFT, Kanpur.

12. Insofar as the merits are concerned, it is pertinent to note that out of the ten impugned DEL orders, nine orders were passed on 05.09.2023 during the subsistence of the moratorium declared under Section 14 of the IBC (admitted on 09.06.2023) and it is well-settled that any coercive or adverse administrative order passed against a Corporate Debtor in violation of the statutory moratorium is *void ab*



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13. Even otherwise, it has been pointed out that during the CIRP, the Respondents had quantified it's claim towards *government dues* on account of non-fulfillment of export obligations at approximately ₹15.66 Crores which was submitted in FORM- B as *operational debt*.

The relevant extract of the FROM-B is reproduced herein below: -

7.	DETAILS OF HOW AND WHEN DEBT INCURRED	THE M/S KOTSONS PRIVATE LIMITED HAD NOT FULFILLED THE EXPORT OBLIGATION AS PER RECORDS MAINTAINED BY THE OFFICE IN RESPECT OF 08 AUTHORISATIONS UNDER ADVANCE AUTHORISATIONS AND 03 EPCG AUTHORISATIONS BUT COULD NOT FULFIL THE EXPORT OBLIGATION IN RESPECT OF THESE AUTHORISATIONS AS MENTIONED IN ANNEXURE-1. ACCORDINGLY THE TOTAL OUTSTANDING DUTY/ DUTY FOREGONE AMOUNT ALONG WITH APPLICABLE INTEREST ALREADY TAKEN BY THE AUTHORISATION HOLDER WHILE MAKING IMPORT AGAINST THESE AUTHORISATIONS BECOMES GOVERNMENT DUES TO BE RECOVERED FROM THE SAID AUTHORISATION HOLDER. THIS IS ALSO TO BE NOTED THAT THE ACTUAL UTILISATION OF DUTY TAKES PLACE AT CUSTOMS PORT. FURTHER IN RESPECT OF 03 MEIS DUTY CREDIT SCRIPS, RECOVERY OF RS. 12.00 AND INTEREST RS. 20 IS ALSO PENDING AND SAME IS ALSO TO BE COUNTED AS A PART OF GOVT DUES.
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The amount of Claim to be filed before CIRP in respect of M/s KotsonsPrivate Limited(IEC 0296013242)

Name of Scheme	Authorisation Number and Date of issue of Authorisation	Duty saved amount as per information provided in the application at the time of filing application	Interest		Total Interest (INR)	Total Claim
			Interest rate at 18% till 31.03.2016 from the date	Interest rate at 15% after 01.04.2016 till 09.06.2023		
AA	610035776 dt.8-1-14	21394907.57	6414955.30	23080122.89	29495078.19	50889985.76
AA	610037340 dt. 07-5-14	11923002.00	3733696.24	12862142.57	16595838.81	28518840.81
AA	610038269 dt. 4-12-15	10541536.00	1840292.26	11371862.47	13212154.72	23753690.72
AA	610038672 dt. 9-8-17	2401764.00		2072755.23	2072755.23	4474519.23
AA	610038786 dt. 012-1-18	2832164.00		1921603.88	1921603.88	4753767.88
AA	610038819 dt. 16/02/2018	1439286.00		1146894.06	1146894.06	2586180.06
AA	610038825 dt. 28/02/2018	1144986.00		906734.80	906734.80	2051720.80
AA	610038934 dt. 31/07/2018	13562663.00		9887738.70	9887738.70	23450401.70
EPCG	630005484 dt. 007-9-15	3739201.00	490501.22	4033727.11	4524228.32	8263429.32
EPCG	630005729 dt. 2/01/2016	2061744.00	70155.78	2224141.64	2294297.43	4356041.3
EPCG	630005965 dt. 9-6-16	1760320.00		1784675.11	1784675.11	3544995.11
	Total Claim against Authorisations	72801573.57	12549600.80	71292398.46	83841999.26	156643572.83
CAG Audit (MEIS)	01.0619010150 dated 25.07.2016 02.619011632 dated 09.12.2016 03.0619009276 dated 25.05.2016	12			20	32
		72801585.57			83842019.26	156643604.83

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14. Thus, non-fulfilment of the export performance obligation culminated in a monetary liability (for duty saved, along with interest and penalties). The Resolution Plan was submitted, which specifically stipulated that the government dues, including that of the Respondents stood settled at *nil*. The relevant extract of the terms Resolution Plan is reproduced herein below: -

3	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0%
		(b) Other than (a) above:				
		(i) Government dues	28,66,81,472.83	16,56,25,349.83	71,32,907	2.48%
		* EPFO Jaipur	87,00,394	71,32,907	71,32,907	81.98%
		* ESI Jaipur	13,13,588	13,13,588		
		* DGFT Kanpur	15,66,43,604.83	15,66,43,604.83		
		* Custom (Agra, Tughlakabad)	11,94,88,636	0	0	0
		* Income Tax Kolkata	5,35,250	5,35,250		
		Total of Govt Dues	28,66,81,472.83	16,56,25,349.83	71,32,907	2.48%
		(ii) Workmen	1,33,29,669	77,26,606	40,07,415*	100%
		(iii) Employees				
		(iv) Operational Creditors (Other than workmen & employees)	28,12,09,535.76	12,87,89,327.40	5,00,000	0.17%
		Total[(a) + (b)]	58,12,20,678	30,21,41,283	1,16,40,322	2%

15. In the schedule of Operational Creditors (Government Dues) set out in above order, the claim of DGFT Kanpur was explicitly recorded as admitted at ₹15,66,43,604.83, against which the amount proposed and approved was *Nil (0%)*. The above Resolution Plan was approved by the learned NCLT *vide* Order dated 02.08.2024 and it was also noted that from the date of the approval of the Resolution Plan, any claim not included in the approved Resolution Plan is permanently extinguished, and no party retains the right to initiate or

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pursue/continue any legal proceedings regarding such claims.

16. Thus, evidently, the primary breach as well as the attached performance obligations stood discharged and extinguished as the statutory framework of the IBC explicitly grants complete immunity to the Corporate Debtor and its new management from any liability or adverse action pertaining to defaults committed prior to the commencement of the CIRP. Further Section 31 (1) of the IBC specifically provides that once a resolution plan is approved by the Adjudicating Authority/NCLT, it becomes binding on all stakeholders, including creditors, employees, governments, and local authorities. The underlying objective is to enable the successful resolution applicant to take over and operate the corporate debtor as a going concern, without being burdened by antecedent claims and liabilities, thereby providing finality to the resolution process and avoiding a proliferation of litigation arising from unresolved claims pertaining to the period preceding the resolution.

17. Considering the conspectus of facts placed forth, this Court is of the opinion that continuing an administrative disability like the *DEL* status, which is essentially a coercive mechanism to enforce pre-CIRP export obligation, violates the “*clean slate*” principle. When undisputedly the Resolution Plan came to be approved by the learned NCLT and the Respondents neither challenged the approval order by the learned NCLT dated 02.08.2024 or sought any modification thereof, the Petitioner’s name should not have remained in the *DEL*, on account of the past any dues/default of the erstwhile management, that too when the same as pointed out by the Petitioner under the

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Resolution plan stood settled at *Nil*.

18. Once the new management has taken over, continuation of such *Denied Entry List* even after approval of the Resolution Plan would be contrary to the “*clean slate*” principle under the IBC. Reference in this regard is made to the judgment passed by the Hon’ble Supreme Court in ***Ghanshyam Mishra & Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited*, (2021) 9 SCC 657**, wherein it has been categorically held that all such claims which are not a part of the Resolution Plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of any claim which is not a part of the Resolution Plan.

19. In view of the above, the impugned orders are set-aside and the Petitioner is directed to be removed from the *DEL*.

20. This Court is mindful that extinguishment of monetary claims would not preclude the Respondents from undertaking verification under the applicable provisions. It is, thus, clarified that the Respondents shall remain at liberty to undertake fresh verification in accordance with law to confirm the credentials of the new-management. In case any independent default or non-fulfilment of export obligation is found, the same shall constitute a fresh cause of action and the Respondents shall be at liberty to take appropriate action in accordance with law and pass fresh orders.

21. The petition is disposed, along with pending application(s), if any.

AMIT MAHAJAN, J

SEPTEMBER 30, 2026/“SS”

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