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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 31588 OF 2026

Swan Defence and Heavy Industries Ltd.
(Formerly known as Reliance Naval and
Engineering Ltd.)

.. Petitioner

Versus

Assistant Commissioner of Income
Tax, Central Circle 6(3) & Ors.

.. Respondents

Mr. Sham V. Walve, with *Abhishek Khandelwal, Bhavik Chheda*,
Advocates for the Petitioner.

Ms. Swapna Gokhale, *Advocates for the Respondents.*

**CORAM: B. P. COLABAWALLA &
FARHAN P. DUBASH, JJ.**

DATE: OCTOBER 16, 2026

P. C.

1. The above Writ Petition has been filed challenging the Show Cause Notice dated 31st March 2026 issued under Section 148A (1) of the Income Tax Act, 1961 [**for short 'IT Act'**], Order dated 29th June 2026 passed under Section 148A (3) of the IT Act and the consequent Notice dated 29th June 2026 issued under Section 148 of the IT Act initiating re-assessment for A.Y. 2020-21 in case of the Petitioner.

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2. The short ground of challenge is whether the Income Tax Department could have proceeded against the Petitioner after a Resolution Plan was sanctioned/approved by the NCLT, for a period prior to approval of such Plan, by issuing the impugned Notice under Section 148 of the IT Act. The Petitioner contends that conducting such proceedings against the Petitioner would be an academic exercise since no demand can be raised upon the Petitioner for A.Y. 2020-21. This is for the simple reason that prior to initiation of the impugned proceedings, a Resolution Plan came to be approved by the NCLT, Ahmedabad Bench *vide* its Order dated 23rd December 2022. The Resolution Plan submitted by one ‘Hazel Mercantile Ltd.’ for the Petitioner-Company came to be approved by the NCLT as per Section 31 of the Insolvency and Bankruptcy Code, 2016 (for short “**IBC**”). A combined reading of Paragraph Nos. 23 and 24 of the NCLT Order would show that all past claims would stand extinguished. In fact, the NCLT Order while noting the same, has made a reference to the decision of the Hon’ble Supreme Court in ***Ghanshyam Mishra & Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. & Ors. [(2021) 9 SCC 657]*** even in the context of statutory dues.

3. At the outset, Mr. Walve, the learned counsel appearing on behalf of the Petitioner pointed out that this Court in the Petitioner's own case for the same A.Y. 2020-21 [in Writ Petition No. 1029 of 2025] *vide* an Order dated 19th August 2025 has quashed the re-assessment proceedings initiated *vide* a Notice dated 26th March 2024 issued under Section 148 of the IT Act by following the judgment of the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra)***. Despite the Order passed by this Court, a fresh Notice has now been issued for the same A.Y. 2020-21 on the basis of some fresh purported information received from the Enforcement Directorate. He submitted that the facts relating to the NCLT Order as well as the Order of this Court in Writ Petition No. 1029 of 2025 were before the Assessing Officer and thus, the Assessing Officer could not have initiated the re-assessment.

4. Mrs. Gokhale, the learned counsel appearing on behalf of the Respondents opposed the submission of the Petitioner. She submitted that in the present case, the Revenue is only reopening the assessment based on fresh information received from the Enforcement Directorate, and it is not a proceeding for recovery of past claims. In accordance with Risk Management

Strategy, the Assessing Officer under *bonafide* belief, initiated the re-assessment by issuing the Show Cause Notice under Section 148A (1) of the IT Act. She argued that the information received indicates fraudulent transactions, reversal trades with shell entities, and deliberate attempts to evade tax. She further argued that the Corporate Insolvency Resolution Process should not be permitted to be used as a mechanism to overcome any misdeeds, misappropriations or illegalities deliberately done with an intention to evade tax. According to her, while the Resolution Plan may extinguish claims for the purpose of recovery, it does not bar the Income Tax Department from reopening an assessment where there is *prima facie* material indicating fraud, misappropriation or illegality. She submitted that the Department is not seeking to fasten any liability at this stage; it only seeks to verify, scrutinize and enquire into the suspicious transactions. She further submitted that the earlier Order dated 19th August 2025 in Writ Petition No. 1029 of 2025 was passed on the material then available. At that time, the information regarding fraudulent transactions were not before this Court. She contended that if the transactions are found to be fraudulent, and if the apprehension of the Income Tax authorities is found to be true, the Income Tax authorities would be left remediless for taking appropriate action for the so-called mischief, misdeeds, misappropriation or illegality. She also submitted that the authorities cannot be faulted if they want to initiate

proceedings to ascertain whether there has been any illegal, fraudulent or fake transaction, and if yes, at least appropriate proceedings can be initiated against the Director/Directors who were then responsible in managing the affairs of the business. However, she is not in a position to controvert the findings of this Court recorded in the Order dated 19th August 2025 in the Petitioner's own case for A.Y. 2020-21.

5. We have heard the learned counsel for the parties and perused the papers and proceedings. We fail to understand how the Assessing Officer could have initiated any fresh re-assessment proceeding against the Petitioner once we had quashed the re-assessment proceeding for the same A.Y. 2020-21 *vide* our Order dated 19th August 2025 [in Writ Petition No. 1029 of 2025] by following the principles laid down by the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra)***. We have seen the copy of the Order dated 19th August 2025, which is annexed to the present Writ Petition at ***Exhibit – 'H'***. Be that as it may, even upon independent examination of the record in the present case, we observe that the Income Tax Department could not have proceeded against the Petitioner after approval of Resolution Plan by the NCLT for a period prior to approval of such Plan, notwithstanding the fact that some new information was received by the Income Tax Department. At this stage, no liability can be fastened on the Petitioner for any actions

prior to approval of the Resolution Plan. In the view that we take, we are not only supported by the decision of the Hon'ble Supreme Court in ***Ghansham Mishra (supra)***, but also by the decision of this Court in the case of ***Alok Industries Ltd. Vs. Assistant Commissioner of Income Tax [2024] 161 taxmann.com 285 (Bombay)***.

6. In view of the aforesaid discussion and position in law, we hereby quash and set aside the impugned Show Cause Notice dated 31st March 2026 (***Exhibit 'I'***) issued under Section 148A (1) of the IT Act, impugned Order dated 29th June 2026 (***Exhibit 'K'***) passed under Section 148A (3) of the IT Act and the impugned Notice dated 29th June 2026 issued under Section 148 of the IT Act (***Exhibit 'L'***).

7. Rule is made absolute in the aforesaid terms and the Writ Petition is disposed of in terms thereof. No orders as to costs.

8. It is needless to clarify that the Income Tax Department is free to take action against the erstwhile management of the Petitioner-Company, if they are so entitled to in law.

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

[FARHAN P. DUBASH, J.]

[B. P. COLABAWALLA, J.]