2026:MHC:4771

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 15-09-2026

Pronounced On : 27-11-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE S.RAVEEKUMAR

WA No. 1849 of 2021

CNR:{HCMA010821032021}

Case QR

AND

CMP NOs. 11705 and 11704 OF 2021 and 25356 OF 2026

M/s.Ruchi Soya Industries Ltd
(Now Patanjali Foods Limited)
Rep.By Its Authorized Signatory,
Mr.R.Venkatraman 301, Mahakosh House, 7/5
South Tukoganj, Nath Mandir Road, Indore-452001,

Now Having its Office At Ruchi House, Survey No. 169, Royal Palms, Aarey Colony, Goregaon (East), Mumbai-400065

(Cause title amended vide this order) ..Appellant(s)

Vs

1. Union Of India
   Through The Secretary, Ministry Of Finance,
   North Block, New Delhi

2. The Commissioner Of Customs
   In The Office Of Commissioner Of Customs,
   Customs House, Rajaji Salai, Chennai-1

3. The Deputy/Asst. Commissioner Of Customs
   In The Office Of Commissioner Of Customs,
   Customs House, Rajaji Salai, Chennai

..Respondent(s)

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against order dated 26/04/2021 passed in WP No. 31090/2015.

For Appellant(s): Mr.Rajesh Rawal for Mrs.V.Pushpa

For Respondent(s): Mr.K.S.Ramaswamy
Senior Standing Counsel

Judgment

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

CMP No.25356 of 2026 filed seeking to amend the cause title is ordered.

2. The Writ Petitioner is the appellant and has instituted this appeal, aggrieved by an order dated 26.04.2021 passed by the Writ Court. The challenge in the Writ Petition was to an order of re-assessment dated 22.09.2015 of Bills of Entry dated 15.09.2015. The Writ Petition has been disposed with certain directions, and the appellant assails the order of the Writ Court urging that the directions issued are patently erroneous.

3. The Writ Petitioner had filed bills of entry bearing numbers 2606915 and 2606926, both dated 15.09.2015 to clear a consignment of palm oil of edible grade. In the course of assessment of the bill of entries, there was an amendment to Serial No.55 of Notification No.12/2012-Customs dated 17.3.2012 by Notification No.46/2015-Customs dated 17.9.2015. As a result, the rate of Basic Customs Duty (BCD) stood enhanced from 7.5% to 12.5%.

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4. The appellant contended that the Gazette containing the Notification had been placed in public domain on 21.09.2015 at 3.30 p.m. and would hence be applicable only from that date, by which time the consignment had arrived. The alternate contention taken was that since the appellant was before the National Company Law Tribunal (NCLT) at the instance of a financial creditor, Standard Chartered Bank, an Interim Resolution Professional has been appointed and the NCLT approved the resolution plan on 24.07.2019, the Customs Department would be bound by that resolution plan only.

5. The case of the appellant was that since the resolution plan approved by the NCLT had not been included the demand under the impugned orders of re-assessment, such demand was liable to be eschewed in light of the finality to be accorded to the resolution plan. For this purpose, the appellant had relied primarily on the judgment of the Supreme Court in *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd.*[1] as well as the following judgments:

1. *Ruchi Soya Industries Ltd. v. Union of India*[2]
2. *Union of India v. Ruchi Soya Industries Ltd.*[3]
3. *Ruchi Soya Industries Ltd. v. Union of India*[4]
4. *Union of India v. Param Industries Ltd.*[5]
5. *Ruchi Soya Industries Ltd. v. Union of India*[6]

[1] (2021) 9 SCC 657
[2] (2022) 6 SCC 343
[3] W.A.No.2575 of 2018 (Karnataka High Court) dated 27.05.2021
[4] W.P.No.41394 of 2015 (Karnataka High Court) dated 06.03.2018
[5] (2016) 16 SCC 692
[6] 2016 SCC Online Cal 166 = 2016 (336) ELT 463 (Cal.)

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6. Ruchi Soya Industries Ltd. v. Union of India[7]

6. Pending the Writ Petition, an interim order had been passed by the Writ Court on 01.10.2015 directing the release of the goods imported under the subject bills of entry, on condition that the appellant furnished a bank guarantee to protect the interests of the Department.

7. Though no counter was filed by the Customs Department before the Writ Court, the written submissions filed on 07.04.2021 before the writ Court reveals its defence. The respondents admit that no claim petition had been filed by the Customs Department before the Resolution Professional, and relying instead, entirely on the interim order passed by the Writ Court on 01.10.2015.

8. Learned counsel for the appellant would outline the scheme under the Insolvency and Bankruptcy Code, 2016 (in short 'IB Code) for settlement of claims, emphasizing that creditors have necessarily to respond to a call for claims issued by the Resolution Professional and submit claims in relation to outstanding demands for adjudication. In a situation where no claim has been preferred, the right of the creditor would stand extinguished on approval of a Resolution Plan by the NCLT.

9. In light of the admitted position that no claim has been filed by the Customs Department in this case, the appellant would strongly urge that the

[7] 2016 SCC Online Cal 3821 = 2017 (350) ELT 201 (Cal.)

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demand raised under the order impugned in the Writ Court stands extinguished without reference to either of the parties.

10. According to the appellant, the Writ Court has proceeded on a tangent. The appellant had made submissions both on the merits of the orders as well as on the aspect of finality to be attributed to the Resolution Plan. On the merits of the re-assessment, the Writ Court has held adverse to the appellant, that the amended Notification had come into effect on the date of its publication in the original gazette, i.e., 17.9.2015 and its publication in the website of the Central Board of Indirect Taxes on the same day, and not on 21.09.2015 when it was made available to the public.

11. On the extinguishment of the demands and applicability of the judgment in *Ghanashyam Mishra and Sons Pvt. Ltd.* (supra), the Court accepts the submissions in part, ultimately remitting the matter to the authorities in the Customs Department, to await a clarification to be obtained from the NCLT as to whether the demand of customs duty had been included in the Resolution Plan.

12. The appellant has been directed to file an application before the NCLT within 30 days from date of receipt of the Writ Court's order and another 150 days to obtain such clarification. The Customs Department has been granted liberty to recover the duty on the expiry of the period granted by the

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Writ Court, subject to the orders to be passed by the NCLT. This, in sum and substance, is the order assailed before us.

13. We have heard both learned counsel, Mr.Rajesh Rawal learned counsel for Mrs.V.Pushpa, learned counsel on record for the appellant and Mr.K.S.Ramaswamy, learned Senior Standing Counsel for the respondents, and perused the material papers.

14. The Standard Chartered Bank had instituted C.P.Nos.1371 and 1372/I&BP/NCLT/MHA.2017 before the NCLT and by order dated 15.12.2017, a moratorium under Section 14 of the IB Code had been imposed and an Interim Resolution Professional (RP) appointed.

15. With this, the Corporate Insolvency Resolution Process commenced and the RP took necessary steps to call for and receive claims from creditors, adjudicate upon the same and formulate a Resolution Plan. The Resolution Plan came to be finalised and ultimately placed before the NCLT for Approval and by order dated 24.07.2019 passed in M.A.No.1721 of 2019 the NCLT approved the Resolution Plan in full.

16. No claim had been made by the Customs Department before the RP and this position is admitted as seen from the written submissions filed by the Department before the Writ Court, where they state as follows:

> *[9] I state that the argument of the petitioner Company is untenable on the following reasons -that my interest was secured by*

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giving bank guarantee by virtue of the order passed by this Hon'ble Court in W.P.No.31090 of 2015 directing the petitioner to furnish Bank Guarantee for the differential duty payable and the Bank Guarantee is still alive.

[10] I state that it is not necessary to file a claim petition for the customs liability by the Customs Department since my interest was secured by the orders of this Hon'ble Court.....

17. The interim order passed by the writ Court on 01.10.2015 reads thus:

> *4. To safeguard the interest of both the parties, and following a similar order dated 28.09.2015, passed by the High Court of Karnataka in W.P.No.41394 of 2015 filed by the petitioner, there shall be order of interim stay in respect of differential duty in excess of 7.5% on the petitioner making available the bank guarantee for the difference of tax between 7.5% and 12.5% to respondent No.2 within one week from the date of receipt of a copy of this order. The second respondent is directed to forthwith issue orders for release of goods under the bills of entry No.2606915 and 2606925 dated 15.09.2015.*

18. We have carefully perused the above order and only find (i) an order of interim stay granted in respect of recovery of the differential duty and (ii) a direction to the Customs Department to release goods under Bills of Entry dated 15.09.2015 on security of a bank guarantee to be furnished by the Department.

19. We do not find anything else therein that secures the interest of the Customs Department, such that the necessity to file a claim petition stands obviated. The order of interim protection thus has only the limited impact of balancing the rights of the parties pending the main litigation, and nothing more. Being an interim measure, it would certainly not substitute the procedure set out under the IB Code for settlement of outstanding claims.

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20. The scheme under the IB Code and the proceedings for CIRP are entirely different and distinct, and provide for the measures to be undertaken for settlement of claims of creditors, the process to be followed for adjudication of claims, and the impact of the finalised and approved Resolution Plan.

21. Section 3(6) of the IB Code defines 'claim' in the following terms:

> *3. Definitions-*
>
> *(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.*

22. Thus, it is only upon institution of a claim by a creditor, that the process of adjudication of the claim would commence, securing and protecting the position of the creditor in the CIRP. The Respondents have admittedly not initiated such a process, and moreover, do not even believe that such a process is necessary in their case.

23. We are of the considered view that the defence that the interim protection granted by the writ Court would secure the interests of the Department in regard settlement of the outstanding demands, is wholly misconceived and has no basis in law. The nature of interim protection granted

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by the writ Court is, but limited, and cannot be equated to the CIRP provided for under the Code.

24. The purpose, object and procedure contemplated under the IB Code are specific in regard to the insolvency process to be followed for settlement of debts, and under Section 238, the provisions of the code have been given effect, notwithstanding anything inconsistent contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

25. The Supreme Court in *Ghanashyam Mishra and Sons Pvt. Ltd.* (supra) has formulated the clean slate principle holding that only those claims that have been adjudicated upon by RP, and that figure in the Resolution Plan as approved by the NCLT, would be held to be valid for settlement. Outstanding debts of other creditors, not placed before the RP, would stand effaced in limine, as they would not have stood the test of adjudication, determination and inclusion in the RP for approval by the NCLT.

26. In the present case, it is not in dispute that the Customs Department has not preferred a claim as they have said so in as many words, in the written submission filed before the Writ Court. In fact, they go so far as to say that no claim was required to be filed. In view of the clarity provided in this regard, there was no necessity for any direction to the appellant to approach the NCLT to seek a further clarification, and as a sequitur, all other directions are also found to be unnecessary.

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27. The appellant must succeed and the order of the Writ Court is set aside. This Writ Appeal is allowed with no order as to costs. Connected Miscellaneous Petitions are closed.

(A.S.M.,J.) **(S.R.K.,J.)**

27-11-2026

sl

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Note: Registry is directed to make necessary changes in the cause title.

To

1. The Secretary, Ministry Of Finance, North Block, New Delhi
2. The Commissioner Of Customs
   In The Office Of Commissioner Of Customs, Customs House, Rajaji Salai, Chennai-1
3. The Deputy/Asst. Commissioner Of Customs
   In The Office Of Commissioner Of Customs, Customs House, Rajaji Salai, Chennai

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DR.ANITA SUMANTH J.

AND

S.RAVEEKUMAR J.

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WA No. 1849 of 2021

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