

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad**

**Before Shri Rama Kanta Panda, Accountant Member
AND
Shri K.Narasimha Chary, Judicial Member**

ITA Nos.1114/Hyd/2014
Assessment Year: 2009-10

ITA No.1891/Hyd/2014
Assessment Year:2010-11

&

ITA No.891/Hyd/2016
Assessment Year:2011-12

Basai Steels &Power Pvt.Ltd. A-23/5-6, APIE Balanagar, Hyderabad	Vs	DCIT,Circle-1(3) Aaykar Bhawan Hyderabad
PAN : AACCB53531J		
(Appellant)		(Respondent)

Assessee by: Shri C.P.Ramaswami, Advocate
Revenue by: Shri Rajendra Kumar, CIT-DR

Date of hearing: 20.10.2022
Date of pronouncement: 20.10.2022

ORDER

Per Shri K.Narasimha Chary (J.M):

The above three appeals filed by the assessee are directed against the separate orders dated 24.02.2014 of the Learned Commissioner of Income tax (Appeals)-II, Hyderabad relating to the AY 2009-10, 2010-11 & 2011-12 respectively. For the sake of convenience

both these appeals were heard together and are being disposed-of by this common order.

2. At the outset it is represented by the Learned AR that no adjudication is necessary in this matter, since at the instance of one of the operational creditors, Corporate Insolvency Resolution Proceedings (CIRP) were initiated under the provisions of the Insolvency and Bankruptcy Code, 2016 ("the Code") in CA No. 86 of 2018 in CP (IB) No. 77/09/HDB/2017 on the file of the National company law Tribunal, Hyderabad (NCLT) and the same are concluded by the NCLT by order dated 13.04.2018 under section 31 of the Code. Ld. AR submitted that the rights, liabilities and disabilities of the parties stood crystallised as per the Resolution Plan as approved by the Adjudicating Authority as is evident from paragraph No. 8 of the order dated 13.04.2018, in terms of the decision of the Hon'ble Apex Court in the case of Ghanashyam Mishra And Sons vs Edelweiss Asset Reconstruction (2021) 126 taxmann.com 132 (SC). Learned DR concedes this factual and legal position as submitted by the Ld. AR.

3. We have considered the issue in the light of the provisions of and the decision of the Hon'ble Apex Court in the case of Ghanashyam Mishra and Sons vs Edelweiss Asset Reconstruction (supra). The copy of the order dated 13.04.2018 establishes that at the instance of 1 of the one of the operational creditors, CIRP were initiated and concluded and the Adjudicating Authority approved the same. In Ghanashyam Mishra And Sons (supra), it was held that,

- (i) 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. 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;

(ii) (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; and

(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 its approval under Section 31 could be continued.

4. A reading of the decision in Ghanashyam Mishra And Sons (supra), clearly shows that when once CIRP reach the logical conclusion with due approval of the resolution plan 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.

5. It, therefore, follow us that these appeals cannot be proceeded with and the parties have to work out their remedies as per the CIRP as approved by the adjudicating authority. With this view of the

matter, we consider the request of the Ld. AR that these appeals have become infructuous and the same may be dismissed as infructuous.

6. In the result, these appeals are dismissed in limine.

Order pronounced in the Open Court on this the 20th day of October, 2022.

Sd/-

**(RAMA KANTA PANDA)
ACCOUNTANT MEMBER**

Sd/-

**(K.NARASIMHA CHARY
JUDICIAL MEMBER**

Hyderabad, dated 20th October, 2022.
Thirumalesh/sps

Copy to:

S.No	Addresses
1	Basai Steels &Power Pvt.Ltd., A-23/5-6, APIE, Balanagar, Hyderabad
2	DCIT,Circle-1(3), Aaykar Bhawan, Hyderabad
3	CIT(A)-II, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order