

Reserved on : 04.09.2025
Pronounced on : 19.09.2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.15951 OF 2021 (T – RES)

C/W

WRIT PETITION No.15459 OF 2021 (T – RES)

IN WRIT PETITION No.15951 OF 2021

BETWEEN:

M/S. OLIVE LIFESCIENCES PRIVATE LIMITED
NO. 38/2, SPICE VALLEY,
JAKKASANDRA VILLAGE,
NELAMANGALA,
BENGALURU – 562 123,
REPRESENTED BY ITS DIRECTOR,
JUIE HILLAL,
AGED ABOUT 45 YEARS,
D/O. HILAL MUHAMMED.

... PETITIONER

(BY SMT.VINITHA M., ADVOCATE)

AND:

- 1 . UNION OF INDIA
THROUGH THE SECRETARY,
MINISTRY OF FINANCE,
(DEPARTMENT OF REVENUE),
NO.137, NORTH BLOCK,
NEW DELHI – 110 001.
- 2 . THE COMMISSIONER OF STATE TAX
VANIJYA THERIGE,
1ST MAIN ROAD,
GANDHINAGAR,
BENGALURU – 560 009.
- 3 . THE DY / ASST. COMMISSIONER OF
STATE TAXES (AUDIT) 5.8
DIVISIONAL GOODS AND
SERVICE TAX OFFICE-5,
VANIJYA THERIGE KARYALAYA-2,
B BLOCK, 5TH FLOOR, KORAMANGALA,
BENGALURU – 560 047.

... RESPONDENTS

(BY SMT.PRATIBHA R., CGC FOR R-1;
SRI K.HEMA KUMAR, AGA FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED CAS ORDER NO.398342594, DATED 14.09.2020 IN ANNEXURE-A PASSED BY THE R3; QUASH THE IMPUGNED DEMAND NOTICE DATED 14.09.2020 BEARING DEMAND NO.135776584 (IN ANNEXURE-B) ISSUED BY THE R3; AWARD COSTS OF AN INCIDENTAL TO THIS APPLICATION BE PAID BY THE RESPONDENTS AND ETC.,

IN WRIT PETITION No.15459 OF 2021

BETWEEN:

M/S. OLIVE LIFESCIENCES PRIVATE LIMITED
NO 38/2, SPICE VALLEY, JAKKASANDRA VILLAGE
NELAMANGALA
BENGALURU – 562 123
REP BY ITS DIRECTOR
JUIE HILLAL, AGED ABOUT 45 YEARS
D/O HILAL MUHAMMED.

... PETITIONER

(BY SMT.VINITHA M., ADVOCATE)

AND:

- 1 . UNION OF INDIA
THOUGH THE SECRETARY
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NO.137, NORTH BLOCK,
NEW DELHI – 110 001.
- 2 . THE COMMISSIONER OF CENTRAL TAX
NORTH-WEST GST COMMISSIONERATE
2ND FLOOR, SOUTH WING,
BMTc BUS STAND COMPLEX
SHIVAJINAGAR
BENGALURU – 560 051.
- 3 . THE SUPERINTENDENT OF CENTRAL EXCISE
CNWD3, RAGNE
NORTH-WEST COMMISSIONERATE
2ND FLOOR, SOUTH WING
BMTc BUS STAND COMPLEX
SHIVAJINAGAR

BENGALURU – 560 051.

... RESPONDENTS

(BY SMT.PRATHIBA R., CGC FOR R1;
SRI JEEVAN J.NEERALGI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, TO QUASH THE IMPUGNED SHOW CAUSE NOTICE IN ANNEXURE-F DATED 16.03.2018 BEARING REF.NO.C.NO.V/15/21/165/2017 ADJN BNW/1301/2018 ISSUED BY THE R2; QUASH THE IMPUGNED ORDER SL NO.14/2021-22-COM-BNW/2384/2021 DT 15.06.2021 IN ANNEXURE-N PASSED BY THE R2; QUASH THE IMPUGNED LETTER DT 22.07.2021 BEARING O.C.NO.13/2021-2022 IN ANNEXURE-P ISSUED BY THE R3 AND ETC.,

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 04.09.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

In these petitions, in which petitioner is common as also, few of the respondents, the issue is common. Therefore, the two are taken up together and considered by this common order.

2. The petitioner is before this Court calling in question Sales Tax proposition notice, proposing to demand interest under the

Central Sales Tax Act and confirming the said demand, pursuant to an ex-parte assessment order, again under the Central Sales Tax Act.

3. Facts, in brief, germane are as follows: -

The petitioner is a Company incorporated and registered under the Companies Act, 1956. It is engaged in the business of manufacturing consumer products such as I-Coffee, I-Pulse and I-Charge, on which Central Sales Tax and Central Excise Duty was payable and was being paid. In Writ Petition No.15951 of 2021, the petitioner effects inter-state sales under the provisions of the Central Sales Tax Act (hereinafter referred to as 'the Act' for short). Likewise, the petitioner also effects export sales under the provisions of the Act which are subject to production of two different forms – C-form for the inter-state and H-form for export. During the course of assessment, the 3rd respondent confirms a tax demand of ₹88,61,606/- being the differential tax liability on account of non-production of both forms in terms of the provisions of the Act.

4. Likewise, in Writ Petition No.15459 of 2021, the excise duty had been paid by the petitioner in terms of a notification issued under the Act. The petitioner intimated the 3rd respondent about the classification and claimed benefit at a lower rate. Pursuant to the aforesaid act, the petitioner was subjected to assessment and audit by the Central Excise for the period between March, 2015 and July 2015 during which period, the products manufactured by the petitioner were presented and the classification of I-Coffee and I-Pulse come to be approved under the Central Excise product classification.

5. When things stood thus, owing to certain financial difficulties, the petitioner filed an application under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code' for short) for commencement of Corporate Insolvency Resolution Process ('CIRP'). The petitioner's application was filed before the National Company Law Tribunal. This comes to be admitted in Case No.CP(IB)No.63/BB/2017. On admission of the application of the petitioner for CIRP, the Tribunal declared a moratorium under Sections 13 and 14 of the Code from the date of

admission of CIRP i.e., 22-09-2017, as obtaining under Section 14 of the Code. The averment in the petition is that moratorium prohibits institution or continuation of suits and proceedings against the petitioner, including execution of any judgment and decree of any Court of law or order of the Tribunal, Arbitration or other Authorities. It is the further averment that by virtue of moratorium declared, the Central and the State Governments were prohibited from instituting any proceedings against the petitioner.

6. The resolution professional who was appointed in CIRP makes a public announcement regarding CIRP being initiated against the petitioner and seeks claims from creditors of the petitioner as obtaining under Section 15 of the Code read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The resolution professional also serves a notice dated 16-02-2018 upon the revenue authorities seeking statement of their claims due from the petitioner Company for the assessment years up to the date of CIRP. It is then that the 2nd respondent in Writ Petition No. 15459 of 2021 issues a show cause notice dated

16-03-2018 proposing recovery of demand for the period from March 2014 to June 2017 to the tune of ₹11.06 crores along with penalty and interest. The Assistant Commissioner of Central Tax also submitted his claim as per the show cause notice dated 16-03-2018, to the resolution professional on 21-03-2018.

7. The CIRP process continued and on 06-06-2018, one Ms. Juie Hilal, a resolution applicant presented a resolution plan under Section 30 of the Code to revive the Company. The resolution plan comes to be approved by the Committee of Creditors on 09-06-2018. The resolution plan so approved provided for financial settlement of dues of financial creditors, operational creditors and statutory/Government dues up to the date of commencement of CIRP. On the score that the petitioner had to pay certain amounts, a show cause notice dated 14-06-2018 is issued by the 2nd respondent in Writ Petition No. 15951 of 2021 for the assessment year 2015-16. However, it is pertinent to note that the revenue had not presented its claim for the subject matter in this petition. In so far as the show cause notice dated 16-03-2018 is concerned, the resolution professional, as the authorized representative of the

Company, issued a reply notice dated 12-03-2019 contending that the Revenue Authorities are prohibited from initiating any proceedings against the petitioner in light of the moratorium under Section 14 of the Code still being in subsistence. On 09-07-2019 the resolution plan was approved by the National Company Law Tribunal and thus became binding on all the stakeholders.

8. In both these petitions after the aforesaid process on two dates i.e., 14-09-2020 and 15-06-2021 ex-parte assessment orders are passed and an order in original confirming the demand for the period from March 2014 to June 2017 with penalty and interest is saddled upon the petitioner. It is these ex-parte assessment orders and the notices issued preceding the said assessment orders and the orders in original are called in question in these cases at hand.

9. Head Smt. M. Vinitha, learned counsel appearing for the petitioner, Smt. R. Pratibha, learned Central Government Counsel appearing for respondent No.1 in both the writ petitions; Sri K. Hema Kumar, learned Additional Government Advocate appearing for respondents 2 and 3 in Writ Petition No.15951 of

2021 and Sri Jeevan J. Neeralgi, learned counsel appearing for respondents 2 and 3 in W.P.No.15459 of 2021.

10. The learned counsel appearing for the petitioner would contend that the object of the Code is to ensure speedy resolution and revival of the corporate debtor by handing it over to a resolution applicant who would be an interested promoter of a going concern. The corporate debtor is revived after settlement of all dues to its creditors prior to commencement of CIRP. All dues are identified and would be settled, as per the resolution plan approved by the Committee of Creditors and the Tribunal. Remaining dues of creditors including Central or the State Governments which remain unpaid would stand extinguished and no proceedings in respect of such claims can be entertained. The show cause notices issued ought not to have been issued since moratorium was declared and no proceedings can be initiated after the declaration of moratorium under Section 14 of the Code. Therefore, all the proceedings taken up after the declaration of moratorium excluding the statutory dues or demand, are contrary to law. The learned counsel submits that the Central and the State

Governments are included under the ambit of operational creditors and are prohibited from recovering claimed or unclaimed dues beyond the amounts settled in the approved resolution plan. The learned counsel places reliance upon certain judgments of the Apex Court which would all bear consideration in the course of the order.

11. The respondent/revenue has filed its statement of objections and would contend that approval of the resolution plan by the Tribunal in terms of its order dated 09-07-2019 does not prohibit or restrict revenue authorities from the determination of duty involved and efforts to be taken to recover the amount thereon. When the amounts are found to be due after determination of excise duty, the revenue authorities are bound to issue show cause notice before proceeding to determine any duty payable. There were no proceedings instituted in furtherance of the show cause notice. The order in original was made on 15-06-2021, after the moratorium ceased to have effect in terms of the order dated 09-07-2019, as the Tribunal on that date approved the resolution plan. The learned counsel would seek to place reliance on Section 31 of the Code to contend that moratorium under

Section 14 of the Code will cease to have effect after the resolution plan under Section 30 is approved by the Tribunal. The dues cannot be treated as dues for the period of insolvency. Therefore, defends action of notice and consequential demands made.

12. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

13. The afore-narrated facts are a matter of record. Before embarking upon consideration of the issue, I deem it appropriate to notice the statutory framework. The entire fulcrum of the *lis* revolves round the provisions of the Code. The provisions that are germane to be noticed are Sections 10, 13, 14, 30 and 31. They read as follows:

"10. Initiation of corporate insolvency resolution process by corporate applicant.—(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application, furnish—

- (a) the information relating to its books of account and such other documents for such period as may be specified;
- (b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and
- (c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—

- (a) admit the application, if it is complete and no disciplinary proceeding is pending against the proposed resolution professional]; or
- (b) reject the application, if it is incomplete or any disciplinary proceeding is pending against the proposed resolution professional:

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.

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13. Declaration of moratorium and public announcement.—(1) The Adjudicating Authority, after admission of the application under Section 7 or Section 9 or Section 10, shall, by an order—

- (a) declare a moratorium for the purposes referred to in Section 14;**
- (b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under Section 15; and**
- (c) appoint an interim resolution professional in the manner as laid down in Section 16.**

(2) The public announcement referred to in clause (b) of sub-section (1) shall be made immediately after the appointment of the interim resolution professional.

... ..

14. Moratorium.—(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely—

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;**
- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;**
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);**

- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Explanation.—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period.

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2-A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to—

- (a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
- (b) a surety in a contract of guarantee to a corporate debtor.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

30. Submission of resolution plan.—(1) A resolution applicant may submit a resolution plan along with an affidavit stating that he is eligible under Section 29-A to the resolution professional prepared on the basis of the information memorandum.

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

- (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;
- (b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than—
 - (i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53; or
 - (ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of Section 53,

whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of

the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of Section 53 in the event of a liquidation of the corporate debtor.

Explanation 1.—For the removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

Explanation 2.—For the purposes of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor—

- (i) where a resolution plan has not been approved or rejected by the Adjudicating Authority;
 - (ii) where an appeal has been preferred under Section 61 or Section 62 or such an appeal is not time barred under any provision of law for the time being in force; or
 - (iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;
- (c) provides for the management of the affairs of the corporate debtor after approval of the resolution plan;
 - (d) the implementation and supervision of the resolution plan;
 - (e) does not contravene any of the provisions of the law for the time being in force;
 - (f) conforms to such other requirements as may be specified by the Board.

Explanation.—For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.]

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six per cent of voting share of the financial creditors, after considering its feasibility and viability the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of Section 53, including the priority and value of the security interest of a secured creditor, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 (Ord. 7 of 2017), where the resolution applicant is ineligible under Section 29-A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of Section 29-A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of Section 29-A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of Section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section.

Provided also that the eligibility criteria in Section 29-A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 (Ord. 6 of 2018) shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018."

(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.

31. Approval of resolution plan.—(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of Section 30 meets the requirements as referred to in sub-section (2) of Section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and 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, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan:

Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.

(2) Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1),—

- (a) the moratorium order passed by the Adjudicating Authority under Section 14 shall cease to have effect; and**
- (b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.**

(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in Section 5 of the Competition Act, 2002 (12 of 2003), the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors."

(Emphasis supplied)

The ailing Company, owing to financial difficulties, filed an application under Section 10 of the Code before the National Company Law Tribunal for an insolvency process called the CIRP. The moment CIRP is admitted Sections 13 and 14 spring into action. Sections 13 and 14 deal with declaration of moratorium of

those corporate entities who have sought for CIRP. Section 31 deals with approval of resolution plan and what happens thereafter. The demand of the revenue in the cases at hand is under the provisions of the Sales Tax Act. The genesis of the issue, therefore, will have to be noticed from the date on which the petitioner files an application before the Tribunal under Section 10 of the Code. On the application, the Tribunal passes an order admitting the corporate debtor for a CIRP. The order reads as follows:

ORDER

This Petition is filed by Corporate Applicant Olive Lifesciences Private Limited under Section 10 of Insolvency and Bankruptcy Code, 2016 read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process.

The Corporate Applicant M/s. Olive Lifesciences Private Limited in the petition states that it was incorporated on 18th September, 2007 having CIN No. U24230KA2007PTC043892. The Registered office of the Corporate Applicant is situated at No.2203, 1st Floor, Pragathi, 16th D Cross, 8th main, D Block, Sahakarnagar, Bengaluru-560092. The latest authorised share capital is Rs.58,95,00,000/-. The issued, subscribed and paid-up share capital is Rs.33,95,01,000/-, The Audited balance sheet of 31st March, 2017 is marked as **Annexure-V**.

The Board of Directors of the Corporate Applicant in their meeting held on 20th July, 2017 authorised all Directors of the Company, to file necessary application for initiating the Corporate Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016 (Page 31 of the application) and accordingly C.A.Anzar, the Director of the Company has filed this Petition.

The Corporate Applicant provided details of financial and operational creditors. A perusal of the details reveal that the Corporate Applicant is in default for more than 4 years. The total sum due to Financial Creditors is Rs.31,49,60,313/- and Operational Creditors is Rs.29,74,72,147.086. The Corporate Applicant further disclosed the details of security against the loan of the corporate applicant is fully and partially secured along with details of the date of creation and estimated value etc.,

The Corporate Applicant has also provided the copies of audited financial statement for the year 2017, list of assets and liabilities, details of financial and operational creditors. The Corporate Applicant disclosed the names and addresses of members with details of their shareholdings and affidavit in support of the petition.

We have heard the counsel for Petitioner. This Petition is filed under Section 10 of Insolvency and Bankruptcy Code, 2016. The Petitioner is Corporate Applicant. The contention of counsel of the Petitioner Company is that, the company has committed default and that the petition is to initiate a corporate insolvency resolution process. We considered to issue notices to the financial creditors of the Petitioner Company. Counsel for Petitioner was directed to issue notices. The Counsel for HDFC Bank and Axis Bank reported that the banks have no objection if the petition is admitted and for initiating Insolvency Resolution Process by the corporate applicant.

The Corporate Applicant has named Mr. Gigi Joseph K J, Registration No. IBBI/PA-002/IP-N00163/2017-2018/10432, residing at 463, 10th Main, 13th Cross, Wilson Garden, Bangalore-560027, Email:gigi@jandc.in as Interim Resolution Professional and the said Interim Resolution Professional in his letter has expressed his willingness for the appointment and also certified that there are no disciplinary proceedings pending against him.

Hence, This Bench admits this petition under Section 10 of Insolvency and Bankruptcy Code, 2016 declaring moratorium with the following directions:

- i. **That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;** transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- ii. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- iii. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- IV. That the order of moratorium shall have effect from 22nd September, 2017 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, whichever is earlier.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the code.
- vi. **That this Bench hereby appoints Mr. Gigi Joseph K J, Registration No. IBBI/IPA-002/IP-N00163/2017-2018/10432, residing at 463, 10th Main, 13th Cross, Wilson Garden, Bangalore-560027, Email: Email:gigi@jandc.in as Interim Resolution Professional to carry the functions as**

mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.”

(Emphasis added)

The moment the application is admitted, an interim resolution professional is appointed. In the case at hand, one Mr. Gigi Joseph was appointed as the interim resolution professional. The interim resolution professional then makes a public announcement dated 26-09-2017 to all creditors of the petitioner in all leading newspapers in consonance with Section 15 of the Code read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The public announcement notices are appended to the petitions. In the interregnum, one Mr. Anand Ramachandra Bhat is appointed as the resolution professional. The resolution professional then serves a notice dated 16-02-2018 on the revenue authorities seeking statement of their claim by the petitioner Company upto the date of CIRP. The communication reads as follows:

**"NOTICE FOR THE ATTENTION OF CREDITORS OF OLIVE
LIFESCIENCES P LTD**

Service tax commissionerate-2
HAL Airport Road,
Domlur, TTMC, BMTC Bus Stand
Bengaluru-560071

As you are aware, M/s Olive Lifesciences Private Limited is undergoing corporate insolvency resolution process vide order No. CP (IB).No.63/BB/17 dated 22nd September 2017 passed by Hon'ble National Company Law Tribunal, Bangalore.

Accordingly, public announcement was made by the then Interim Resolution Professional on 26th September 2017 requiring creditors to submit their claims in proper form as required under the Insolvency and Bankruptcy Code along with documents substantiating such claim.

In case you have not submitted your claims, you may submit your claims in appropriate forms (Form no. B for operational creditor, Form C for financial creditors and form D for employees) along with documentation substantiating the claims. These forms can be downloaded from www.ibbi.gov.in.

You may submit your claims by 26th February 2018 either physically or through e-mail to Mr. Anand Ramachandran Bhat, Resolution Professional for olive Lifesciences Pvt Ltd, No.81, 8th Main, 8th Cross, Serpentine Road, Kumara park west, Bangalore-560020,

Relevant particulars are stated below:

1	Name of the corporate debtor (CD)	M/s Olive Life sciences Pvt Ltd
2	Corporate identity of CD	U24230KA2007PTC043892
3	Registered office of CD	No. 2203, 1 st Floor, Pragathi, 16 th D Block, 8 th Main, D Block, MCECHS Layout, Sahakar Nagar,

		Bangalore - 560092
4	Insolvency commencement date	22 nd September, 2017
5	Insolvency closure date(estimated)	21 st March, 2018
6	Contact details of Resolution Professional and your claims should be submitted to.	Name: Anand Ramachandra Bhat Address: No.81, 8 th Main, 8 th Cross, Serpentine Road, Kumara Park West Bangalore – 560 020 Reg. No.-IBBI/IPA-001/IP-P00467/2017-18/10810
7	Last date for submission of claim	26 th February 2018

Kindly note that submission of false or misleading claims/proof of claims shall attract penalties.

In case you have already submitted your claims, you may ignore this notice.

Thanking You,

For Olive Lifesciences Pvt Ltd.,

Sd/-

Anand Ramachandra Bhat

Resolution Professional for Olive Lifesciences Pvt Ltd

Reg. No.-IBBI/IPA-001/IP-P00467/2017-18/10810”

(Emphasis added)

What comes back is a show cause notice on 16-03-2018 seeking to project certain demand against the company for the period from 2014 to 2017. The reason for imposition of demand is as follows:

“ ”

The assessee has suppressed the information about the true nature of the said products from the department by mis-classifying with an intention to pay duty at lesser rate instead of full rate of duty, proving their intention to evade payment of duty. Had the department not initiated the verification on the issue the fact of mis-classification and payment at concessional rate of duty would have gone un-noticed. Despite knowing the facts that the said products are in health promoter drinks, the assessee has classified under Fruit juice based drinks and coffee premix which attract lesser rate of duty, with a intent of evading payment of central excise duty. Hence, it appears that during the period specified above, the assessee has misclassified the said three excisable goods resulting in short payment of duty. Therefore, the aforementioned Central Excise duty of Rs. 11,06,20,310/- for the period from 1.3.2014 to 30.06.2017 (as detailed in Annexure-A), is recoverable from them under Section 11A (4) of the Central Excise Act, 1944 by invoking the extended period of limitation. Further, they are also liable to pay interest as applicable on the duty demanded under Section Central Excise Act.

14. As the assessee has willfully suppressed and mis-declared the relevant facts from the department with an intention to evade payment of duty and have contravened the provisions of aforementioned rules, they have thereby rendered themselves for penalty under Section 11 AC (1)(c) of the Central Excise Act, 1944. It further appears that the said excisable goods cleared on short payment of duty are liable to confiscation under Rule 25 of Central Excise Rules, 2002 and are liable for penalty under Rule 25 of Central Excise Rules, 2002.

15. Whereas, it appears that Shri C.A. Anzar, Managing Director, M/s. Olive Life Sciences Private Ltd, Bangalore has major role in the above said Modus operandi with sole intention of evading payment of Central Excise duty by suppressing & misrepresenting the facts of nature and characteristics of the subject excisable goods. By the act

of mis-classifying lesser duty has been paid and that he had full knowledge that the said goods cleared by them are liable to confiscation under Rule 25 of Central Excise Rules, 2002. For the deliberate intention/ act for the offence committed, Shri C.A.Anzar, Managing Director is liable to be personally penalized under Rule 26 of Central Excise Rules, 2002.

16. Now, therefore, M/s.Olive Life Sciences Private Ltd, #38/2, Spice Valley Jakkasandra Village, Nelamangala, Bangalore – 562123, are hereby required to show cause to the Commissioner of Central Taxes, GST, North-West Commissionerate, BMTC Building, Shivajinagar, Bangalore-560051, as to why:

- a) the classification adopted by the assessee in respect of the excisable, goods I-Coffee (CETH 21011200) and I-Pulse & I-Charge (under CETH 22029020) should not be rejected and the said goods should not be re-classified under CETH 21069099 of CETA;
- b) an amount of Rs. 11,06,20,310/-/- (Rupees Eleven crores, Six lakhs, Twenty Six thousand and Three hundred and Ten only) being the differential Central Excise duty payable on the said excisable goods cleared during the period from 01.3.2014 to 30.6.2017, should not be demanded and recovered from them under Section 11A(4) of the Central Excise Act, 1944;
- c) an amount of Rs 1,50,06,172 /- paid on the said goods cleared during the period from 01.3.2014 to 30.6.2017 should not be appropriated against the amount demanded at sl no. b) above;
- d) Interest should not be demanded and recovered on the duty demanded at sl no. (b) above from them under Section 11AA of the Central Excise Act, 1944;
- e) Penalty should not be imposed on them under Section 11AC (1)(c) of Central Excise Act, 1944;

- f) Penalty should not be imposed on them under Rule 25 of Central Excise Rules, 2002."

(sic)

(Emphasis added)

Similar demand is also made by the 2nd respondent vide show cause notice dated 14-06-2018 in Writ Petition No.15951 of 2021. During the pendency of these demands, the Tribunal passes an order approving the resolution plan submitted by one Mrs. Juie Hilal. The relevant portion of the order dated 09-07-2019 reads as follows:

"....

8. In the result, by exercising the powers U/s 31(1) IBC, 2016, I.A No. 116 of 2019 & C.P.(IB)No.63/BB/2017 are disposed of with the following directions:

- (1) **It is hereby approved the Resolution Plan dated 6th June, 2018 submitted by Mrs.Juie Hilal for the Corporate Debtor as approved by the CoC by e-voting held on 9th June, 2018 with 100% of voting share Crores by declaring that the Resolution Plan will be binding on the Corporate Debtor and its employees, members, creditors, guarantors, and other stakeholders involved in the resolution plan.**
- (2) The moratorium imposed vide order dated 15.12.2017 passed in the CP shall cease to have affect from the date of communication of the order.

- (3) The Resolution Professional is directed to handover the management control all the assets, documents/records in physical and/or digital form on an as is where is basis to the Resolution Applicant immediately, and the Resolution Professional will ceased to be resolution professional.
- (4) The Resolution Professional shall forward all records relating to the conduct of the CIRP and the resolution plan to the Board to be recorded on its database.
- (5) The Resolution Applicant shall pursuant to the resolution plan approved under sub-section (1) obtain the necessary approval required under any law for the time being in force within a period of the one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:
- (6) Provided that where the resolution plan contains a provision for combination as referred to in section 5 of the Competition Act, 2002 (12 of 2003), the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of Creditors.
- (7) The Resolution Applicant is at liberty to file any miscellaneous application seeking for clarification, if any, in the implementation of the terms and conditions to the Resolution Plan.
- (8) No order as to costs."

(Emphasis added)

But, the demand by the revenue is pursued, progressed and results in issuance of an order in original. The order in original reads as follows:

"ORDER

- (i) I hold that the classification adopted by M/s.Olive Life Sciences Private Ltd, situated at #38/2, Spice Valley, Jakkasandra Village, Nelamangala, Bangalore-562123, in respect of excisable goods viz., I-Coffee under chapter subheading 21011200, 1-Pulse under chapter subheading 22029020 and I-Charge under chapter subheading 22029020, is hereby rejected. I also hold that the said goods have to be classified under chapter subheading 21069099 of the Central Excise Tariff Act, 1985;
- (ii) I confirm the demand of Rs.11,06,20,310/- (Rupees eleven crores, six lakhs, twenty six thousand, three hundred and ten only) from them, being the differential central excise duty payable by them on the manufacture and clearance of the said excisable goods during the period from 01.03.2014 to 30.06.2017, in terms of Section 11A(4) of the Central Excise Act, 1944;
- (iii) I reject the proposal to appropriate an amount of Rs.1,50,06,172/- made in the show cause notice dated 16.03.2018, as discussed in Para 32 above;
- iv) I confirm the demand of interest from them on the amount of duty confirmed at (ii) above, in terms of Section 11AA of the Central Excise Act, 1944;
- v) I impose a penalty of Rs.11,06,20,310/- (Rupees eleven crores, six lakhs, twenty six thousand, three hundred and ten only), on them in terms of Section 11AC(1)(c) of the Central Excise Act, 1944. If the amount confirmed at (ii) above and interest confirmed as at (iv) above is paid by them within a period of thirty days of the date of receipt of this Order, the penalty payable shall be twenty-five percent of Rs. 11,06,20,310/-, provided such reduced

penalty is also paid within thirty days of the date of receipt of this Order.

- vi) I order for confiscation of 4,64,507 kgs./ltrs of excisable goods viz., I-Coffee, 1-pulse and I-Charge, valued at Rs.100,63,57,925/-, manufactured and cleared without payment of appropriate central excise duty, by M/s.Olive Life Sciences Private Ltd, situated at #38/2, Spice Valley, Jakkasandra Village, Nelamangala, Bangalore-562123, during the period from 01.03.2014 to 30.06.2017, under Rule 25 of the Central Excise Rules, 2002, and as the said goods, though liable for confiscation, are not available for confiscation, I impose a redemption fine of Rs.1,00,00,000/- (Rupees one crore only) under Section 34 of the Central Excise Act, 1994;
- (vii) I impose a penalty of Rs.10,00,000/- (Rupees ten lakhs only) on Shri.C.A.Anzar, Managing Director, M/s.Olive Life Sciences Pvt. Ltd., No.38/2, Spice Valley, Jakkasandra Village, Nelamangala, Bangalore-562123, in terms of Rule 26 of Central Excise Rules, 2002.

Sd/-05/06/21
(DHARM SINGH)
Commissioner"

(sic)

Identical orders are passed in the companion petition varying the amount. It is this that has driven the petitioner to this Court in the subject petitions.

14. The issue now would be, whether the revenue could have processed the demand on a corporate debtor, pursuant to institution of CIRP and declaration of moratorium. The issue need

not detain this Court for long or delve deep into the matter. The Apex Court in the case of **GHANASHYAM MISHRA AND SONS (P) LIMITED v. EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED¹**, considering the entire spectrum of the issue has held as follows:

"....

"96. Clauses (20) and (21) of Section 5 of the I&B Code define "operational creditor" and "operational debt" respectively as such:

"5. (20) "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment 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;"

97. "Creditor" therefore has been defined to mean "any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder". "Operational creditor" has been defined to mean a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred. "Operational debt" has been defined to mean a claim in respect of the provision of goods or services including employment or a debt in respect of the payment 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.

¹ (2021) 9 SCC 657

98. It is a cardinal principle of law that a statute has to be read as a whole. Harmonious construction of clause (10) of Section 3 of the I&B Code read with clauses (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 clause (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 clause (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."

...

...

...

Conclusion

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

102.1. That 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.**

102.2. The 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 the I&B Code has come into effect.

102.3. 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."

(Emphasis supplied)

Following the said judgment of **GHANASHYAM MISHRA** *supra*, a Division Bench of this Court in **UNION OF INDIA v. RUCHI SOYA INDUSTRIES²**, has held as follows:

"....

77. The provisions of section 238 of the IBC states that the provisions of the IBC shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law. Further, it is noted that crown debts do not take precedence even over secured creditors, who are private persons. This is clear on a reading of section 238 of the IBC which provides for the overriding effect of the IBC notwithstanding anything inconsistent contained in other law for the time being in force or effect by any such law. Therefore, if the Departments of Central or State Governments do not file an application or participate in the resolution process, their claims automatically get extinguished having regard to the judgment of the

² 2021 SCC OnLine Kar.15698

honourable Supreme Court in the case of Ghanashyam Mishra [2021] 91 GSTR 28 (SC); [2021] 227 Comp Cas 251 (SC); [2021] SCC OnLine SC 313."

(Emphasis supplied)

In terms of the aforesaid judgments what would emerge is, that the claims of the sales tax authorities would stand extinguished since they had not taken part in the resolution process and had not submitted their claims in the resolution plan. Accordingly, no demand can be made in respect of claims that extinguished. Therefore, the demand notice that forms the fulcrum of *lis* in Writ Petition No.15951 of 2021 and all further proceedings taken thereto would all become contrary to the judgments quoted hereinabove and, therefore, would lead to their obliteration.

15. In Writ Petition No.15459 of 2021 the proceedings taken after CIRP is admitted and kicking in of Sections 13 and 14 of the Code. Whether after declaration of moratorium the Revenue Authority has power to assess quantum of duties and submit its claims also need not detain this Court for long or delve deep into the matter. The Apex Court in the case of **ABG SHIPYARD**

LIQUIDATOR v. CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS³, holds as follows:

"... .."

"48. From the above discussion, we hold that the respondent could only initiate assessment or reassessment of the duties and other levies. They cannot transgress such boundary and proceed to initiate recovery in violation of Sections 14 or 33(5) of the IBC. The interim resolution professional, resolution professional or the liquidator, as the case may be, has an obligation to ensure that assessment is legal and he has been provided with sufficient power to question any assessment, if he finds the same to be excessive.

... ..

57. On the basis of the above discussions, following are our conclusions:

57.1. Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.

57.2. After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.

57.3. In any case, the IRP/RP/liquidator can immediately secure goods from the respondent authority to be dealt with appropriately, in terms of the IBC."

(Emphasis supplied)

³ (2023) 1 SCC 472

What follows from the afore-quoted judgment of the Apex Court is that the assessment of duties and other levies by the revenue authorities after the declaration of moratorium is restricted to the statement of claims required to be submitted to the resolution professional.

It is apposite to refer to the judgment of the Apex Court in the case of **ESSAR STEEL INDIA LIMITED COMMITTEE OF CREDITORS v. SATISH KUMAR GUPTA**⁴, wherein it is held as follows:

" "

105. Section 31(1) of the Code makes it clear that once a resolution plan is approved by the Committee of Creditors it shall be binding on all stakeholders, including guarantors. This is for the reason that this provision ensures that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate as it were. In *SBI v. V. Ramakrishnan* [*SBI v. V. Ramakrishnan*, (2018) 17 SCC 394: (2019) 2 SCC (Civ) 458], this Court relying upon Section 31 of the Code has held: (SCC p. 411, para 25)

"25. Section 31 of the Act was also strongly relied upon by the respondents. This section only states that once a resolution plan, as approved by the Committee of Creditors, takes effect, it shall be binding on the corporate debtor as well as the guarantor. This is for the reason that otherwise, under Section 133 of the Contract Act, 1872, any change made to the debt owed by the corporate debtor, without the surety's consent, would relieve the guarantor from payment. Section 31(1), in fact, makes it clear that

⁴ (2020) 8 SCC 531

the guarantor cannot escape payment as the resolution plan, which has been approved, may well include provisions as to payments to be made by such guarantor. This is perhaps the reason that Annexure VI(e) to Form 6 contained in the Rules and Regulation 36(2) referred to above, require information as to personal guarantees that have been given in relation to the debts of the corporate debtor. Far from supporting the stand of the respondents, it is clear that in point of fact, Section 31 is one more factor in favour of a personal guarantor having to pay for debts due without any moratorium applying to save him."

106. Following this judgment in *V. Ramakrishnan case* [*SBI v. V. Ramakrishnan*, (2018) 17 SCC 394: (2019) 2 SCC (Civ) 458], it is difficult to accept Shri Rohatgi's argument that that part of the resolution plan which states that the claims of the guarantor on account of subrogation shall be extinguished, cannot be applied to the guarantees furnished by the erstwhile Directors of the corporate debtor. So far as the present case is concerned, we hasten to add that we are saying nothing which may affect the pending litigation on account of invocation of these guarantees. However, NCLAT judgment being contrary to Section 31(1) of the Code and this Court's judgment in *V. Ramakrishnan case* [*SBI v. V. Ramakrishnan*, (2018) 17 SCC 394: (2019) 2 SCC (Civ) 458], is set aside.

107. For the same reason, the impugned NCLAT judgment [*Standard Chartered Bank v. Satish Kumar Gupta*, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. **A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate**

debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count.”

(Emphasis supplied)

The Apex Court holds that once resolution professional and the prospective resolution applicant are in place, the business of the corporate debtor will start on a fresh slate and, therefore, they must be submitted and decided by the resolution professional. The law now is clear that once a moratorium under Section 14 is declared, the proceedings can happen only before the resolution professional. If the claims are submitted before the resolution professional it could become a part of the resolution plan. There is no jurisdiction to parallelly initiate proceedings and raise a demand. In the light of CIRP becoming moratorium kicking in resolution plan acceptance up to the date of CIRP, all the claims are, therefore, before the resolution professional. If there is no claim registered by the State or the Centre, they would lose the right to demand from the corporate debtor. In that light the petitions deserve to succeed by obliteration of the impugned order.

16. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petitions are allowed.
- (ii) The order dated 14-09-2020 passed by the 3rd respondent and the notice dated 14-09-2020 issued thereto impugned in Writ Petition No.15951 of 2021 stand quashed.
- (iii) Show cause notice dated 16-03-2018 issued by the 2nd respondent and the order dated 15-06-2021 passed thereto and all further actions impugned in Writ Petition No.15459 of 2021 stand quashed.

Pending applications, if any, also stand disposed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT:MJ