

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NARSING RAO
NANDIKONDA**

C.E.A.No.60 OF 2010

JUDGMENT: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Ms.Vedula Chitrlekha, learned counsel representing Mr. Vedula Srinivas, learned Senior Counsel for the appellant and Ms. B. Sapna Reddy, learned Senior Standing Counsel for the Income Tax Department for the respondent. Perused the record.

2. The appellant in the instant case is a paper mill viz., M/s Sirpur Paper Mills Limited, Sirpur-Kaghaznagar and the instant appeal is one which is filed under Section 35-G of the Central Excise Act, 1944.

3. The challenge in this appeal is to the order passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), South Zonal Bench, Bangalore in final order No.20/2010 dated 18.01.2010.

4. The CESTAT had affirmed the order passed by the Commissioner (Appeals) rejecting the appeal filed by the appellant herein.

5. Today, when the matter is taken up for hearing, learned counsel for the appellant submits that the impugned order in the present writ petition was already stayed on 26.02.2010 and the same is still in operation till date.

6. Another fact which needs to be considered is that there was also a writ petition that was filed by the petitioner challenging the show cause notice that was issued earlier by the Central Excise Department on 03.03.2006 bearing O.R.No.55/2005-Hyd-I Adjn and the said writ petition was registered as W.P.No.23436 of 2006 and disposed of by order dated 23.01.2024 with the following observations:

“4. Pending the writ petition, the petitioner-company was referred to the National Company Law Tribunal (for short “NCLT.”) under C.P.(IB) No.52/9/HDB/2017, dated 19.07.2018 and in I.A.No.180 of 2018 before the Bench of NCLT., by Final Order No.30839 of 2020 dated 04.03.2020, in clause 7.5(d), the NCLT held as under:

“Upon approval of this Resolution Plan by the NCLT, all dues under the provisions of all the indirect taxes, including but not limited to, the Central Excise Act, 1944, the Finance Act, 1994 (Service Tax), the Customs Act, 1962, the, Central Sales Tax Act, 1956, the Goods and Services Tax Act, 2017 and any other indirect tax laws, including taxes, duty, penalties, interest, fines, cesses, charges, unpaid TDS/TCS(to the extent applicable), whether admitted or not, due or contingent, whether part of the above mentioned contingent liability, scheduled

dues or not, whether claimed by the tax authorities or not, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, shall stand extinguished and the Corporate Debtor will not be liable to pay any amount against such demand. Upon approval of the Approved Resolution Plan by the NCLT, all outstanding litigations/demands, assessments/appellate or other proceedings, including but not limited to any audits, investigations, search and seizure, pending in case of the Corporate Debtor relating to the period prior to the Completion Date, shall stand terminated and all consequential liabilities, if any, will stand abated and shall be considered to be not payable by the Corporate Debtor. All notices proposing to initiate any proceedings against the Corporate Debtor in relation to the period prior to the date of NCLT order and pending on that date, shall be considered deleted and shall not be proceeded against. Post the order of the NCLT, no re-assessment/ revision or any other proceedings under the provisions of any of the indirect tax laws should be initiated on the proceedings under the provisions of any of the indirect tax laws should be initiated on the Corporate Debtor in relation to the period prior to acquisition of control by the Resolution Applicant and any consequential demand shall be considered non-existing and as not payable by the Corporate Debtor. Any proceedings which were kept in abeyance in view of insolvency process or otherwise shall not be revived post the order of NCLT."

5. Today, when the matter is taken up for hearing, learned counsel for the petitioner submits that in the light of the aforesaid order passed by the NCLT and as a consequence of the said order, the implications of the impugned show cause notice gets extinguished. As of now, the grievance of the petitioner stands redressed and the petitioner would not like to pursue the writ petition in the light of the aforesaid order passed by the NCLT".

7. In view of the proceedings that took place before the NCLT and the resolution plan having been approved by the NCLT by order dated 04.03.2020, the aforesaid writ petition itself was disposed of.

8. In view of the aforesaid developments, we are of the considered opinion that the present appeal also, thus, needs to be disposed of in the light of the resolution plan that stood approved by the NCLT in its final order dated 04.03.2020 and the clause which is already reproduced hereinabove.

9. The appeal, accordingly, stands disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

P.SAM KOSHY, J

NARSING RAO NANDIKONDA, J

24.06.2025

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