

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench
Court – I

Excise Appeal No. 1335 of 2012

(Arising out of OIO No.17/2012 (RS) dt.14.02.2012 passed by Commissioner of Central Excise, Customs & Service Tax, Visakhapatnam-II)

Icomm Tele Ltd

Block No.2, Draksharamam Road,
Yanam – 533 464

.....Appellant

VERSUS

**Commissioner of Central Tax
Puducherry - GST**

Port Area, Visakhapatnam,
Andhra Pradesh – 530 035

.....Respondent

Appearance

None for the Appellant.

Shri A. Rangadham, AR for the Respondent.

Coram:

HON'BLE MR. ANIL CHOUDHARY (JUDICIAL)

HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30309/2023

Date of Hearing: 06.10.2023

Date of Decision: 06.10.2023

[Order per: ANIL CHOUDHARY]

Heard the learned AR and perused the records.

2. We find that the company faced financial difficulties and an application was filed by one of the financial creditors under Sec 7 of Insolvency and Bankruptcy Code (IBC), 2016 for recovering debts owned by the company. The Hyderabad Bench of the NCLT issued Order dated 17.10.2019 for initiating Corporate Insolvency Resolution Process (CIRP) in regard to the company under Sec 13 of IBC. Accordingly, a Resolution Plan was floated by the Resolution Professional for approval of the Committee of Creditors. The same was approved on 29.06.2019. The Resolution Plan was submitted before NCLT as required under Sec 30(6) of the IBC. It was approved by NCLT vide Order dated 17.10.2019 and the Resolution Plan is effective from the NCLT Approval Date.

3. The Resolution Plan provided that all debts of the company would be fully and finally settled, upon due compliance with the payment schedules, stipulated therein. As per clause 7.4 of Chapter IV of the Resolution Plan, all proceedings against the company in relation to any period prior to 17.10.2019, whether

forming part of admitted claims or not, shall stand extinguished by virtue of Order dated 17.10.2019. Clause 1(f) in Chapter X of the Resolution Plan states that all claims prior to the NCLT approval date of Governmental Authorities in relation to all taxes which the Appellant was liable to pay shall stand extinguished on the approval date. Clause 1(o) declares that any tax, duty and legal liability for the period prior to approval date will be waived and extinguished. That the instant Appeal filed in 2012 is a claim which existed prior to approval date and stands extinguished by virtue of Resolution Plan. The payment schedules described in the Resolution Plan have been completed. The dispute underlying in the above appeal stands settled under Resolution Plan and nothing survives. It was prayed that appeal may be heard out of turn to record the approval of Resolution Plan by NCLT and the appeal may be disposed accordingly.

4. On perusal of the copy of the Order of NCLT, Hyderabad dated 17.10.2019, it is seen that the NCLT has approved the Resolution Plan. Para 34 reads as follows:

"In view of the foregoing discussion, the 'Resolution Plan' filed with the application meets the requirement of section 30(2) of the I&B Code, 2016 and Regulations 37, 38, 38(1A) and 39(4) of IBBI (CIRP) Regulations, 2016. The 'Resolution Plan' is also not in contravention of any of the provisions of Sec 29A. Hence, this adjudicating authority is satisfied that the Resolution Plan is in accordance with law. Therefore, the 'Resolution Plan' annexed with Application bearing IA No. 577 of 2019 filed in CP (IB) 462/7/HDB/2018 is hereby approved and forms part of this Order. The said Resolution Plan 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 including Resolution Applicant in terms of provisions of Sec 31(1) of the Code."

5. Taking note of the fact that the NCLT has approved the Resolution Plan in the insolvency proceedings in regard to the company, we are of the view that the Appeal does not survive any more. Accordingly, the Appeal is dismissed.

(Dictated and pronounced in the Open Court)

**(ANIL CHOUDHARY)
MEMBER (JUDICIAL)**

**(A.K. JYOTISHI)
MEMBER (TECHNICAL)**