

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**PRINCIPAL BENCH**

**ITEM No. 17**  
**(IB)-630(PB)/2019**

**IN THE MATTER OF:**

State Bank of India	...	Applicant/Petitioner
Vs		
Mastana Foods	...	Respondent

**Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP).**

**Order delivered on 01.05.2024**

**CORAM:**

**JUSTICE RAMALINGAM SUDHAKAR**  
**HON'BLE PRESIDENT**

**SH. AVINASH K. SRIVASTAVA**  
**HON'BLE MEMBER (TECHNICAL)**

**HYBRID HEARING (PHYSICAL & VC)**

**PRESENT:**

For the Applicant	:	Mr. PBA Srinivasan, Mr. V. Aravind, Ms. Srishti Bansal, Mr. Sumit Swami, Advs. for SBI Mr. Pallavi Singh, Advocate in IA-1346/2022
For Respondent	:	Mr. Pankaj Pandey for the ED in IA-3593/2023
For the Objector	:	Mr. Virender Ganda, Sr. Adv. Ms. Akansha Mathur, Mr. Ashraf Belal, Advs. for Dr. Rajendar Aggrawal, Objector to SRA
For the SRA	:	Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Raghav Dambla, Mr. Shaurya Shyam, Advs.
For the RP	:	Mr. Shobit Chaudhary, Mr. Pankaj Agarwal, Mr. Shashwat Srivastava, Advs. for the RP

**ORDER**

**IA-961/2024**

This is an application filed by the Resolution Professional.

In this application prayers 'a' and 'b' have already been allowed vide order dated 13.03.2024 and only prayer 'c' is open. Order dated 13.03.2024 reads as follows:

***“IA-961/2024***

1. The prayer in this application is as follows:

*“a) Take judgement/ final order dated 22.01.2024 passed by Hon'ble Supreme Court of India in Excise And Taxation Of State Tax vs. Ashok Kumar*

*Juneja in Civil Appeal Nos.7514-7515 of 2022 on record;*

*(b) De-reserve order and Dispose the I.A. No. 5283 of 2020 filed by Erst While/ Resolution Professional namely Mr. Ashok Kumar Juneja for seeking the Approval of the Resolution Plan.*

*(c) Direct and Pass appropriate orders for Applicant to conduct the ongoing Corporate Insolvency Resolution Process for M/s Mastana Foods Private limited.*

*2. Heard the parties for some time.*

*3. Ld. Counsel for the RP submitted that the Hon'ble Supreme Court has vacated the earlier stay order and passed the final order dated 22.01.2024 in Civil Appeal No(s). 7514-7515/2022 in the matter of "Excise And Taxation Officer Of State Tax Vs. Ashok Kumar Juneja"*

*4. On 19.07.2022, we reserved IA-5283/2020 which is the plan approval application, and the IA-5459/2020 which is an objection to the plan.*

*5. In view of the order of the Hon'ble Supreme Court, and to enable the parties to make their fresh submissions, both these IAs stand de-reserved.*

*6. Accordingly, the IA-5283/2020 & IA-5459/2020 stand de-reserved.*

*7. In view of the above, the prayer 'a' & 'b' are allowed. In respect of prayer 'c', we will consider it on the next date of the hearing.*

*8. Accordingly, the prayer 'a' & 'b' of IA-961/2024 stands allowed.*

*9. For further consideration, at request and with consent of the parties, list the matter along with all the other pending applications for a physical hearing on 09.04.2024."*

With respect to the prayer 'c', we have heard, Ld. Counsel Mr. Pankaj Agarwal for the RP, Ld. Sr. Counsel Mr. Virender Ganda for the Objector, Ld. Counsel Ms. Vatsala Kak for the SRA, and Ld. Counsel Mr. PBA Srinivasan for the SBI.

We also perused the order passed by the Hon'ble Supreme Court in Civil Appeal No(s). 7514-7515/2022 in the matter of "Excise And Taxation Officer Of State Tax Vs. Ashok Kumar Juneja, dated 22.01.2024 which reads as follows:

**“ O R D E R**

**IA No.180405 of 2022**

*The learned counsel appearing for the original respondent has no objection for allowing this application,*

*as now the respondent sought to be substituted has been appointed as the Resolution Professional. Accordingly, the application is allowed.*

**Civil Appeal Nos.7514-7515 of 2022**

*These appeals were kept pending, as the Review Petitions filed in the case of State Tax Officer(1) v. Rainbow Papers Limited (Civil Appeal No.1661 of 2020 etc.) on which reliance has been placed were pending. Now, the Review Petitions have been dismissed.*

*In the light of the decision dated 6th September, 2022 in the case of State Tax Officer(1) v. Rainbow Papers Limited, we set aside the impugned order dated 22nd March, 2022 passed by the National Company Law Appellate Tribunal. It is obvious that these appeals will be governed by the directions issued in the said decision. The appeals are accordingly allowed on the above terms. Cause Title be amended accordingly.*

*We grant 90 days' time to the substituted Resolution Professional to complete the entire process.*

We also take note of the judgement passed by Hon'ble Supreme Court in *Civil Appeal No. 1661 of 2020 in the matter of State Tax Officer(1) vs Rainbow Papers Limited dated 06.09.2022*, relevant para nos. 56, 57, 58 and 59 of which read as below:

**“56.** *Section 48 of the GVAT Act is not contrary to or inconsistent with Section 53 or any other provisions of the IBC. Under Section 53(1)(b)(ii), the debts owed to a secured creditor, which would include the State under the GVAT Act, are to rank equally with other specified debts including debts on account of workman's dues for a period of 24 months preceding the liquidation commencement date.*

**57.** *As observed above, the State is a secured creditor under the GVAT Act. Section 3(30) of the IBC defines secured creditor to mean a creditor in favour of whom security interest is credited. Such security interest could be created by operation of law. The definition of secured creditor in the IBC does not exclude any Government or Governmental Authority.*

**58.** *We are constrained to hold that the Appellate Authority (NCLAT) and the Adjudicating Authority erred in law in rejecting the application/appeal of the*

*appellant. As observed above, delay in filing a claim cannot be the sole ground for rejecting the claim.*

*59. The appeals are allowed. The impugned orders are set aside. The Resolution plan approved by the CoC is also set aside. The Resolution Professional may consider a fresh Resolution Plan in the light of the observations made above. However, this judgment and order will not, prevent the Resolution Applicant from submitting a plan in the light of the observations made above, making provisions for the dues of the statutory creditors like the appellant.”*

The Hon’ble Supreme Court in the judgement of “*Excise And Taxation Officer Of State Tax Vs. Ashok Kumar Juneja*, dated 22.01.2024 has said that these appeals will be governed by the directions issued in the said decision of *State Tax Officer(1) vs Rainbow Papers Limited* dated 06.09.2022 and 90 days have been granted to the substituted Resolution Professional to complete the entire process.

Accordingly, with respect to prayer ‘c’ of the application, we allow the prayer and direct the Resolution Professional to abide with the aforesaid direction of Hon’ble Supreme Court as quoted in para 59 of the Rainbow Judgement.

In view of the above, prayer ‘c’ is **allowed** as above.

**IA-961/2024 is allowed and stands disposed of.**

**IA-1318/2021, IA-1346/2022, IA-3089/2022, IA-3593/2023, IA-4643/2023, IA-5283/2020 and IA-5459/2020**

Ld. Counsels for the parties appeared.

At the request and by consent of all the parties, list the matter **on 31.07.2024.**

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**(RAMALINGAM SUDHAKAR)  
PRESIDENT**

-sd-

**(AVINASH K. SRIVASTAVA)  
MEMBER (TECHNICAL)**