

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 7

IA 1529/2024 (NEW IA) in C.P. (IB)/410(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **04.04.2024**

NAME OF THE PARTIES: **RENOIR MANAGEMENT CONSULTING**
 INDIA PRIVATE LIMITED VS GOVIND
 RUBBER LIMITED

Section 60(5) & 9 of the Insolvency and Bankruptcy Code, 2016 and Rule
11 and Application under any other provisions- IBC

ORDER

IA 1529/2024 (NEW IA) in C.P. (IB)/410(MB)2018

- 1) Mr. Aniruth Purusothaman, Ld. Counsel for the Applicant is present.
- 2) The present Interlocutory Application has been filed by the Applicant,
Govind Rubber Limited seeking the following reliefs:

- a. Be pleased to set-aside and quash the demand of Rs 15,89,64,116/- for AY 2013-2014 and Rs 12,47,94,266/- for AY 2014-2015 raised by Respondent No. 1 and 2.*
- b. Be pleased to set-aside and quash the demand of Rs. 16,07,94,233.79/-for AY 2016-2017 raised by Respondent No. 1.*
- c. Declare that the adjustment of refund amount of Rs. 1,10,55,920/- (Rupees One Crore Ten Lakh Fifty-Five Thousand Nine Hundred Twenty only) against the purported demand of Rs. 15,89,64,116/-*

and Rs. 12,47,94,266/- for the AY 2013-2014 and 2014-2015 respectively by the Respondent No.3 is bad in law.

d. Be pleased to direct the Respondent No. 3 to provide a no dues certificate to the Applicant.

e. Pending the hearing and disposal of the Application, be pleased to grant ad-interim and interim reliefs in terms of Clause (A), (B), (C) and (D).

- 3) The Interlocutory Application is filed by the Applicant seeking declaration from this Hon'ble Tribunal that the orders dated 09.06.2023 passed by the Respondent No. 1 is illegal and bad in law with respect to purported outstanding dues that have accrued till date of approval of Resolution Plan i.e., 31.01 .2020.
- 4) The Resolution Plan in the present case has been approved by this Bench *vide* order dt. 31.01.2020. The Respondent No. 2 sent a Recovery Notice dated 09.10.2023 to the Applicant demanding an additional amount aggregating to Rs. 2,23,32,585/- over and above the purported outstanding.
- 5) The Applicant submits that the Respondent No. 1 *vide* order dated 11.12.2020 demanded a sum of Rs. 3,66,01,400/- and Rs. 12,23,62,716/- towards the purported dues of PVAT and Central Sales Tax (CST) respectively. A Letter dated 04.02.2021 was sent by Mr. Sanjay to the Respondent No.1 informing that the Corporate Debtor was under CIRP.
- 6) The Applicant submits that the Respondent No. 1 *vide* order dated 18.11.2021 demanded a sum of Rs. 73,08,286/- and Rs. 12,47,94,266/- towards the purported dues of PVAT and Central Sales Tax (CST).

- 7) The Applicant submits that it had filed an application in Form GST RFD-01 under Rule 89(1) of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as 'the said refund application®) seeking a refund of Rs. 1,10,55,920/-. Thereafter, the Respondent No. 3 issued a Refund Order dt. 30.01.2024 to the Applicant wherein the Respondent No. 3 sanctioned the refund of Rs. 1,10,55,920/- as claimed by the Applicant. However, the said refund was adjusted against the purported demand of Rs. 15,89,64,116/- and Rs. 12,47,94,266/- for the AY 2013-2014 and 2014-2015 respectively is illegal and bad in law as the same as pre-CIRP dues which militates against the provisions of the Code.
- 8) The Applicant vide letter dated 01.02.2024 informed the Respondents about reply to the purported demand notices dated 11.12.2020 and 18.11.2021 for the AY 2013-2014 and 2014-2015 respectively sent by the said CA on behalf of the Applicant.
- 9) Hence the present Interlocutory Application has been filed by the Applicant.
- 10) This Bench noticed that the demand for assessment year 2014-2015 & 2016-2017 was created *vide* Assessment order dt. 18.11.2021 and dt. NIL, respectively. The refund sought to be adjusted against these demands pertains to the period 01.04.2023 to 30.09.2023. In this case, the Resolution Plan was approved on 31.01.2020 and Clause 6.3 of the Resolution Plan provides that *all indirect taxes whether admitted or not, due to contingent, whether part of the above mentioned contingent liability schedule dues or*

not, whether claimed by the tax authorities or not, asserted or unasserted, crystallised 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. Accordingly, no demand will survive in relation to the period up to 31.01.2020. Since the demand in questions pertains to the assessment year 2014-2015 & 2016-17, these demands stand extinguished in terms of the approved Resolution Plan. It is pertinent that Section 238 of the Code overrides the provisions of any other Law which are in consistent with the provisions of the Code. Accordingly, the Respondents have erred in setting of the demand for the assessment year 2014-2015 & 2016-2017 after its extinguishment against the amount determined as refundable in relation to the period from 01.04.2020 to 30.09.2023 *vide* order dt. 30.01.2024.

- 11) In view of the forgoing, we direct the Respondents to delete the demands claimed to the outstanding against the Corporate Debtor for the Assessment Year 2014-2015 & 2016-2017, in their records as having been extinguished.
- 12) Further, Office of the Deputy Commissioner, Division- South Ludhiana, Central Goods and Service Tax Commissionerate, is directed to release the refund determined *vide* order dt. 30.01.2024, without any adjustment along with applicable interest, if any.

13) With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 1529 of 2024, is disposed of as Allowed. No costs.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

Vedant Kedare