

HC: Revenue can file unadjudicated claims with IRP; subsequent demand is quashed

Nov 03, 2023

Rishi Ganga Power Corporation Ltd [TS-652-HC-2023(DEL)]

Facts of the case

In the present case, the Delhi High Court was tasked with addressing a complex issue related to the assessment and taxation of the power company for the Assessment Year (AY) 2017-18. The background of the case was marked by RGPCL filing its return of income in December 2017, declaring a financial loss for AY 2017-18. However, several legal developments unfolded simultaneously Punjab National Bank (PNB) initiated insolvency proceedings under Section 7 of the Insolvency and Bankruptcy Code (IBC) against RGPCL in January 2018. The National Company Law Tribunal (NCLT) admitted the petition and imposed a moratorium under Section 14 of the IBC, while also appointing an Interim Resolution Professional (IRP). The NCLT eventually approved a resolution plan (RP) submitted by Kundan Care Products Ltd. (KCPL) in November 2018.

During this period of financial turmoil and insolvency proceedings, the Income Tax Department issued a series of notices to RGPCL under Section 143(2) and 142(1) of the Income Tax Act, 1961 (the 1961 Act), as well as a show-cause notice for making a best judgment assessment and a notice for the levy of a penalty for non-compliance.

Assessee's contention

RGPCL's primary argument revolved around the timing and the binding nature of the approved RP under the IBC. They contended that the assessment and tax claims by the Revenue were not enforceable. They emphasized that the Revenue, as an operational creditor, failed to submit their claims to the Resolution Professional in accordance with the IBC.

RGPCL pointed out that the IBC allows operational creditors to submit their claims, even if they are disputed, and that these claims can be adjudicated upon. Additionally, they underscored the significance of Section 31 of the IBC, which stipulates that once the RP is approved, it is binding on all stakeholders, including statutory creditors like the Revenue. Since the Revenue failed to lodge its claims within the IBC framework, the demands they were trying to enforce were automatically extinguished.

Revenue's contention

The Revenue's argument centered around the timing of their actions and the contention that the proposed additions to RGPCL's income had not materialized into tax demands at the time when the NCLT approved the RP. They asserted that their claims were not submitted to the Resolution Professional during the IBC process, as the proposed tax additions were not yet finalized.

Held:

The Delhi High Court, in its judgment delivered on October 31, 2023, upheld RGPCL's contentions and quashed the demand notices, assessment orders, and penalties imposed by the Revenue. The court relied on the binding nature of the approved RP under the IBC, which encompasses all stakeholders, including creditors. Since the Revenue failed to lodge its claims within the IBC process, the demands they sought to enforce were considered extinguished.

AMRG Take

The case of Rishi Ganga Power Corporation Ltd. versus the Assistant Commissioner of Income Tax highlights the significance of adhering to the procedures outlined in the Insolvency and Bankruptcy Code, particularly regarding the submission of claims by creditors. The court's decision underscores the binding nature of approved resolution plans on all stakeholders, emphasizing that even disputed claims should be submitted within the IBC framework for proper adjudication.

It serves as a reminder of the legal framework's intricacies in cases of insolvency and the importance of timely compliance by all parties involved. This case also reaffirms the principle that once a resolution plan is approved under the IBC, it becomes binding and supersedes any previous claims or tax demands, as demonstrated by the quashing of the Revenue's enforcement attempts in this particular instance.