

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC) No. 29/GB/2022
in CP (IB) No. 20/GB/2017**

Coram:

**Hon'ble Shri Rohit Kapoor, Member (J) : Hearing through
Hon'ble Shri Prasanta Kumar Mohanty, Member (T) : Video Conferencing**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL
COMPANY TRIBUNAL, GUWAHATI BENCH ON 21.06.2022**

Name of the Company:

Assam Company India Limited
..... Corporate Debtor
V/S
The Commissioner of Transport, Guwahati, Assam & Ors.
..... Respondents

Section: Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016

<u>S.No.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>
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1.	NONE		
2.			

ORDER

The Applicant is represented through respective Learned Counsel (s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, Through Video Conferencing vide separate sheet.

Sd/-

**(PRASANTA KUMAR MOHANTY)
MEMBER (T) &
ADJUDICATING AUTHORITY**

Sd/-

**(ROHIT KAPOOR)
MEMBER (J) &
ADJUDICATING AUTHORITY**

**NATIONAL COMPANY LAW TRIBUNAL
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**IA (IBC) No. 29/GB/2022
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Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016

In the matter of:

ASSAM COMPANY INDIA LIMITED

..... Corporate Debtor

V/S

THE COMMISSIONER OF TRANSPORT, GUWAHATI, ASSAM & ORS.

..... Respondents

Coram:

Hon'ble Shri Rohit Kapoor, Member (J)

: Hearing through

Hon'ble Shri Prasanta Kumar Mohanty, Member (T)

: Video Conferencing

Order Delivered on 21.06.2022

O R D E R

[Per: Hon'ble Shri Prasanta Kumar Mohanty, Member (T)]

1. The present petition has been preferred by the Applicant/ Corporate Debtor, i.e. Assam Company India Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as a "Code") for extinguishment of all the claims made against the Applicant relating to the period prior to the effective date i.e. 20th September, 2018 and requesting the Respondents to file fresh claims and dues payable to the Transport Department Commissioner of Transport, Guwahati, Assam on and from 21st September, 2018.

2. The Applicant/Corporate Debtor namely, Assam Company India Limited, incorporated under Companies Act, 1956 and having its Registered Office at Greenwood Tea Estate, Dibrugarh-786001.
3. The Applicant/ Corporate Debtor submits that:
 - 3.1 An application under Section 7 of Insolvency and Bankruptcy Code, 2016 was filed by the FC against the Applicant before the Hon'ble Tribunal and by an order dated 26th October, 2017, this Tribunal admitted the said application and initiated Corporation Insolvency Resolution Process (CIRP) against the Applicant and declared moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016. This Hon'ble Tribunal also appointed an Interim Resolution Professional (IRP) for collating the claims of the Applicant.
 - 3.2 During the CIRP, the Respondent did not file its claim with the IRP. Thereafter, the IRP was replaced by the RP who floated the Expression of Interest for inviting the potential Resolution Applicants to submit their Resolution Plans.
 - 3.3 The Resolution Plan was submitted by the Resolution Applicant being BRS Ventures Investment Limited (Resolution Applicant) and it was duly accepted by the Committee of Creditors in its 13th Meeting held on 10th August, 2018. The Hon'ble Tribunal also approved the said Resolution Plan vide order dated 20th September, 2018.
 - 3.4 In the approved Resolution Plan, it was clearly stated that barring aside the claims admitted and forming part of the Resolution Plan and other claim and/or demand prior to the effective date shall stand extinguished.
 - 3.5 On 6th March, 2019 the Applicant sent a letter to the Respondent No. 1 bringing to their knowledge the commencement of Corporate Insolvency Resolution Process against the Applicant and subsequent approval of the resolution Plan of BRS Ventures Investment Limited (successful Resolution Applicant) by the Hon'ble Tribunal wherein the successful

Resolution Applicant has already infused the amount of Rs. 1,064 Cr. and settled the claim of the stakeholders as per the approved Resolution Plan out of which Rs. 18.93 Crores has been paid to the Operational Creditors. They had requested them to extinguish all the disputed and undisputed claims against the Applicant relating to the period prior to the effective date i.e. 20th September, 2018 in terms of the approved Resolution Plan.

- 3.6 However, the Respondent failed to give any reply to the letters dated 6th March, 2019 sent by the Applicant. The applicant is running several vehicles for transport of raw materials and other products relating to the business in Tea. As such, the applicant is being harassed while playing and running the said vehicles registered in the name of the applicant with the Transport Department, Govt. of Assam. Moreover, the applicant is facing vehicles in the daily course of business due to the in-action and or non-action on the part of the Transport Department, Government of Assam in compliance and/or in terms of the order dated 20th September, 2018.
- 3.7 With reference to the letter dated 6th March, 2019 issued by the applicant for extinguishment of all dues prior to the date of order for approval of Resolution Plan passed by the Hon'ble NCLT, Guwahati Bench, the applicant vide letter dated 27th June, 2019 once again requested the Commissioner of Transport, Transport Department, Government of Assam for extinguishment of all claims of all Government Authorities relating to dues prior to the effective date as mentioned herein above to be permanently extinguished, written off in full, shall stand fully and finally discharged and settled. The applicant also informed that Respondent No. 1 of the order dated 26th October, 2017 and 20th September, 2018 and further thereby communicated to the Respondent No. 1 the applicant's willingness to clear the pending

Government Dues accrued on and from 21st September, 2018 for running the vehicles registered in the name of the applicant.

- 3.8 In spite of the letters dated 6th March, 2019 and 27th June, 2019 issued by the applicant to the respondent No. 1, no action or steps have been taken by the Transport Department and/or the respondent No. 1 to extinguish and/or waive the dues prior to the effective date and has also failed to comply with the order dated 20th September, 2018 passed by the Hon'ble NCLT, Guwahati Bench in CP (IB) No. 20/GB/2017 in the present matter. Moreover, the applicant is willing and is prepared to pay the current legitimate dues of the respondent Authorities post the effective date. However, the Respondent Authorities is insisting upon the payment of the entire dues.
- 3.9 The Applicant has sent several letters for extinguishment of the claims of the respondents for the period prior to the approval of the resolution plan.
- 3.10 The applicant is facing difficulty in running the said vehicles registered in the name of the applicant and is prepared to pay the current legitimate dues of the Respondent Authorities post the effective date i.e. on and from 21st September, 2018 but the Transport Department is not accepting the same and insisting upon all the previous dues including the period prior to the effective date. Thus, in these circumstances the Applicant is unable to make payment of the said dues and taxes levied by the Respondent Authorities.
- 3.11 The Respondent Authorities have acted in gross violation of the order dated 20th September, 2018 passed by this tribunal.
4. The Applicant has prayed for the following reliefs:
- a. Necessary orders be passed directing the respondents to waive and/or extinguish all taxes and Government dues levied on the

applicant for running the vehicles registered in the name of the applicant prior to 20th September, 2018.

- b. Necessary orders be passed directing the respondents to issue fresh claims to the applicant for the current legitimate dues post the effective date for the purpose of Road Tax being levied on and from effective date i.e. 21st September, 2018.
- c. Necessary orders be passed directing the respondents not to take any coercive steps against the applicant until the fresh computation is provided by the respondents for the period after the approval of the resolution plan to till date.
- d. Allow the present IA filed by the applicant and thereby directing the Respondents to accept the current legitimate Government dues and/taxes upon issuances of proper fresh claims/demands made by the Commissioner of Transport, Guwahati, Assam.

5. On the other hand, Respondent No. 1 submits that:

- 5.1** Vide notification No. TMV. 340/2013/Pt-II/391 dated 30.05.2022, the Governor of Assam has been pleased to exempt outstanding liabilities of Road Tax/MV tax etc. prior to 20.09.2018 in respect of vehicles of the gardens under Assam Company India Limited against the vehicles registered in the offices of the District Transport Officer of Dibrugarh, Sivsagar, Tinsukia and Nagaon. A copy of the notification dated 30.05.2022 has been annexed along with the reply.
- 5.2** Since the Government has already decided to exempt the Road tax/ MV tax etc. prior to 20.09.2018 as prayed for, this Hon'ble tribunal may close the IA.

ORDER

- 6. Heard both the sides and perused the submissions, replies and the Government of Assam notification dated 30/05/2022 submitted in the matter.

Since the outstanding liabilities of Road tax/ MV tax etc. prior to 20.09.2018 in respect of vehicles of the gardens under Assam Company India Limited registered in the offices of the District Transport Officer of Dibrugarh, Sivsagar, Tinsukia and Nagaon have been exempted by the Government of Assam vide notification dated 30/05/2022, the Petition has now become infructuous.

7. The Respondents are directed to issue fresh claims on the Applicant for the dues post the effective date i.e. 21st September, 2018 and onwards within 15 days from today.

8. The Applicant is directed to pay the dues of the Respondents from 21/09/2018 onwards within fifteen days from the date of the receipt of the demand notice /letter from the Respondents.

9. Hence the IA (IBC) No. 29/GB/2022 stands disposed of with the above directions.

Sd/-

**(PRASANTA KUMAR MOHANTY)
MEMBER (T) &
ADJUDICATING AUTHORITY**

Sd/-

**(ROHIT KAPOOR)
MEMBER (J) &
ADJUDICATING AUTHORITY**