A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No.256 of 2020

(In the matter of an application under Order 47 Rule 1 read with Section 151 of Civil Procedure Code, 1908)

M/s. Sree Metaliks Ltd., SML House, Main Road, P.O. Barbil, District: Keonjhar	**....**	***Petitioner(s)***
	-versus-	
Union of India and Ors.	**....**	***Opposite Party (s)***

Advocates appeared in this case through Hybrid Arrangement Mode**:**

For Petitioner(s)	:	*Mr. Sidhartha Ray, Sr. Adv. along with associates*
For Opposite Party(s)	:	*Smt. Sephali Das, CGC Mr. Avinash Kedia, Jr.S.C*

CORAM:
DR. JUSTICE S.K. PANIGRAHI
MR. JUSTICE G. SATAPATHY

DATE OF HEARING:-08.05.2025
DATE OF JUDGMENT: -08.08.2025

Dr. S.K. Panigrahi, J.

1. The instant Review Petition has been filed under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 ("CPC") by the petitioner-company seeking review of the judgment dated 02.03.2020 passed in W.P.(C) No. 6890 of 2020. By the said judgment, a Division Bench of this Court had dismissed the petitioner's Writ Petition which challenged an assessment order dated 18.03.2014 and accompanying demand notice dated 18.03.2014 issued by the Income Tax Department in respect of Assessment Year 2011-12. The petitioner now seeks to recall of that decision on the ground that it was rendered without considering material provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC") and other relevant law, resulting in an error apparent on the face of the record.

2. For clarity, the operative portion of the Division Bench's order under review is reproduced below:

> *"Heard Mr. Ray, learned counsel for the Petitioner and Mr. S.S.Mohapatra, learned Standing Counsel for the Income Tax Department.*
>
> *In this writ application, the petitioner has prayed to quash the order of assessment dated 18.03.2024 vide Annexure-1 as well as the Demand Notice dated 18.03.2014 vide Annexure-2.*
>
> *Learned counsel for the petitioner submits that similar question has been considered by the National Company Law Tribunal, Kolkata passed in C.P. (IB) No.16/KB/2017 dated 07.11.2017 and that too the same has been approved by the National Company Appellate Tribunal and incidentally the period of which the benefit the petitioner is asking for is covered by the appellate authority of NCLT, Kolkata. Therefore, the assessment made by the authority cannot be claimed by the petitioner as per the demand raised.*
>
> *Mr. Mohapatra, learned counsel for the Income Tax Department contended that the petitioner cannot come against the order of assessment 2014 before this Court by filing the present writ application because remedy is available under law to approach the appellate forum. Instead of approaching the appellate forum, the petitioner should not have filed this application before this Court.*

Considering the submissions raised by learned counsel for the parties and the materials available on record, it appears that the petitioner has filed this application seeking to quash the assessment order dated 18.05.2014 under Annexure-1 as well as demand notice under Annexure-2 which are also appealable orders. It is contended that because of pendency of the cases before the NCLT and subsequently an approval made by NCLT, the petitioner is liable to pay such amount. But as such, to a query by this Court learned counsel for the petitioner fairly submits that the petitioner has lost any question before the said forum with regard to such assessment because he is not a person aggrieved.

In view of such position if the petitioner is not a person aggrieved then he could not have approached this Court and make an application against the demand notice and the assessment order. Therefore, this Court is of the considered view that adequate remedy is available for the petitioner under the Income Tax Act read with the Companies Act before appropriate forum.

Accordingly, this Court is not inclined to interfere with this writ petition, and as such, the same stands dismissed."

I. FACTUAL MATRIX OF THE CASE:

3. The petitioner-company is engaged in the business of manufacturing sponge iron and iron billets, with its industrial units situated at Loidapada and Anar in the district of Keonjhar, Odisha.

4. Due to financial distress, the petitioner-company became a sick industrial undertaking, and the supply of electricity to its factory was disconnected with effect from 20.10.2011. Consequently, the petitioner-company filed an application before the Board for Industrial and Financial Reconstruction (BIFR), located at Jawahar Bhawan, seeking revival under the provisions of the Sick Industrial

Companies (Special Provisions) Act, 1985. Vide order dated 18.11.2014 passed in Appeal No. 31/14, the BIFR registered the petitioner-company under Section 15(1) of the said Act as a sick industrial company.

5. Subsequently, SREI Equipment and Finance Ltd. initiated proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) before the National Company Law Tribunal (NCLT), Kolkata Bench, against the petitioner-company. The application was admitted, and Mr. Binit Kothari was appointed as the Interim Resolution Professional (IRP). Upon admission of the application, the NCLT, by invoking Section 13(1)(a) read with Section 14 of the IBC, imposed a moratorium prohibiting the following actions:

> *"(a) The Institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
> *(b) Transferring encumbering alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
> *(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 (54 of 2002);*
> *(d) The recovery of any property by an owner or less or where such property is occupied by or in the possession of the corporate debtor."*

6. Pursuant to the initiation of Corporate Insolvency Resolution Process (CIRP), the IRP issued a public announcement inviting submission of claims from all stakeholders, including statutory and government authorities, in terms of Section 15 read with Regulation 6 of the CIRP Regulations. In response to such public notice, various government bodies submitted their claims. Thereafter, a Committee of Creditors (CoC) was constituted, and a Resolution Plan was submitted. The said Resolution Plan disclosed that total statutory dues, including those claimed by the Income Tax Department, amounted to ₹30.71 crores.

7. On 23.10.2017, the IRP submitted the Resolution Plan proposed by Shree Metaliks Ltd., represented by Mr. Mahesh Kumar Agarwal, which was approved by the Committee of Creditors with a voting share of 78.53%. The NCLT, Kolkata Bench, vide order dated 07.11.2017 passed in C.P. (IB) No. 16/KB/2017, approved the said Resolution Plan under Section 31(1) of the IBC.

8. Aggrieved by the order dated 07.11.2017 passed by the NCLT approving the Resolution Plan, M/s. SREI Equipment and Finance Ltd. preferred an appeal before the National Company Law Appellate Tribunal (NCLAT). The NCLAT, vide its order dated 13.12.2018, affirmed the order of the NCLT and upheld the approval of the Resolution Plan.

9. Pursuant to the finality attained by the Resolution Plan upon affirmation by the NCLAT, the management of the petitioner-company was transferred to Mr. Mahesh Kumar Agarwal, the successful resolution applicant, in accordance with the terms of the approved plan.

10. The petitioner-company, having remained non-operational from October 2011 until November 2018 due to its financial condition and CIRP, had neither access to nor knowledge of the assessment orders or notices issued by the Income Tax Department during that period. It was only after the takeover of management by the successful resolution applicant that the petitioner-company became aware of the assessment order and demand notice dated 18.03.2014 pertaining to Assessment Year 2011-12.

11. Consequently, the petitioner-company filed W.P.(C) No. 6890 of 2020 before this Court seeking quashing of the said assessment order and demand notice, primarily on the ground that the company, having undergone CIRP and been revived under a duly approved Resolution Plan, was entitled to operate free from past liabilities not forming part of the said plan. However, by judgment dated 02.03.2020, a Division Bench of this Court dismissed the writ petition. Aggrieved by the said dismissal and alleging non-consideration of binding provisions and precedents under the IBC, the petitioner has now approached this Court by way of the present review petition.

II. PETITIONER'S SUBMISSIONS:

12. Learned counsel for the Petitioner(s) earnestly made the following submissions in support of his contentions:

(a) The Division Bench of this Court has committed error in dismissing the Writ Petition as the impugned order has been passed without taking into consideration the provisions under Sections 14 and 15 of the Insolvency and Bankruptcy Code, 2016 and Section 238 of the said Code. The said Sections of the Code are extracted hereunder:

*"**14. Moratorium**. –*

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b)transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d)the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

[Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or

continuation of the license or a similar grant or right during moratorium period;]

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

[(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.]

[(3) The provisions of sub-section (1) shall not apply to —

[(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;]

(b) a surety in a contract of guarantee to a corporate debtor.]

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

15. Public announcement of corporate insolvency resolution process.–

(1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely: –

(a) name and address of the corporate debtor under the corporate insolvency resolution process;

(b) name of the authority with which the corporate debtor is incorporated or registered;

(c) the last date for submission of [claims, as may be specified];

(d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims;

(e) penalties for false or misleading claims; and

(f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under sections 7, 9 or section 10, as the case may be.

(2) The public announcement under this section shall be made in such manner as may be specified.

238. Provisions of this Code to override other laws.-

The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

(b) The Regulation-6 of the Insolvency Regulation, 2016 having specifically stipulated that an insolvency professional shall be appointed and who shall make a public announcement immediately after his appointment as interim resolute professional, inviting claim and the claim has to be submitted in the prescribed format i.e. in Form-B by the Operational Creditor in Schedule-1 of the Insolvency and Bankruptcy Regulation.

(c) The Income Tax Department having not submitted its claim pursuant to the public announcement, therefore, was not entitled to make any recovery and this Court having not taken into account of this facts, the judgment/order dated 02.03.2020 passed in W.P.(C)No.6890/2020 may be reviewed.

(d)Section 238 of the Insolvency and Bankruptcy Code,2016 has an overriding effect over all other Acts as has been held by the Supreme Court in the case of ***Duncans Industries Ltd Vs. A.J. Agrochem***[1], wherein it has been held:

> *"Therefore, the entire "corporate insolvency resolution process" as such cannot be equated with "winding up proceedings". Therefore, considering Section 238 of the IBC, which is a subsequent Act to the Tea Act, 1953, shall be applicable and the provisions of the IBC shall have an over–riding effect over the Tea Act, 1953. Any other view would frustrate the object and purpose of the IBC. If the submission on behalf of the appellant that before initiation of proceedings under Section 9 of the IBC, the consent of the Central Government as provided under Section 16G(1)(c) of the Tea Act is to be obtained, in that case, the main object and purpose of the IBC, namely, to complete the "corporate insolvency resolution process" in a time–bound manner, shall be frustrated. The sum and substance of the above discussion would be that the provisions of the IBC would have an over–riding effect over the Tea Act, 1953 and that no prior consent of the Central Government before initiation of the proceedings under Section 7 or Section 9 of the IBC would be required and even without such consent of the Central Government, the insolvency proceedings under*

[1] AIR 2019 SUPREME COURT 5472

> *Section 7 or Section 9 of the IBC initiated by the operational creditor shall be maintainable." (Emphasis Supplied)*

(e) The Division Bench of this Court has also failed to take into consideration of the judgment of the Supreme Court passed in the case of ***Committee of Creditors of Essar Steel Ltd. Vs. Satish Kumar Gupta and Others***[2] decided on 15.11.2019, wherein the Supreme Court held as follows:

> *"A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor." (Emphasis Supplied)"*

(f) The Division Bench has further committed error by giving a finding that the review petitioner having not raised before the NCLAT which is an Appellate Forum against the order of NCLT, he is not a person aggrieved. While arriving at this conclusion, this Court has lost sight of the Appellate provision as contained under Sections 60 and 61 of the Insolvency and Bankruptcy Code, 2016 which are extracted below:

> *"Section-60-*
> *(1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial*

[2]AIRONLINE 2019 SC 1494

jurisdiction over the place where the registered office of the corporate person is located.

Xx xx xx

Section 61-

(1)Notwithstanding anything to the contrary contained under the Companies Act 2013, any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

Xx xx xx"

(g) A bare reading of the aforesaid Sections makes it crystal clear that only the person who is aggrieved by the order of NCLT can prefer an appeal against such order and, therefore, since the Petitioner was successful Resolute Applicant, which was approved by NCLT, there was no question of preferring appeal before the Appellate Forum. The appeal which was filed before NCLAT by the SREI Equipments and Finance Ltd. and the NCLAT had confirmed the order of NCLT under Annexure-10 of the Writ Petition.

(h) In such view of the matter, he has submitted that the impugned order passed by the Division Bench of this Court may be reviewed.

III. SUBMISSIONS OF THE OPPOSITE PARTIES:

13. Learned counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:

(a) Learned counsel for the Opposite Parties/ Income Tax Department reiterating his submissions made in the Writ Petition contended that the petitioner cannot come against the order of assessment passed for the assessment year 2011-12 dated 18.03.2014 before this Court by filing the Writ Petition because remedy is available under law to approach the appellate forum. Instead of approaching the appellate forum, the petitioner should not have filed Writ Petition before this Court. He further submitted that as no error apparent on the face of the record is found, the RVWPET filed by the Petitioner may not be entertained by this Court.

IV. COURT'S REASONING AND ANALYSIS:

14. We have carefully considered the rival submissions and perused the material on record. The petitioner seeks to review of the order dated 02.03.2020 on the ground that this Court, while dismissing the writ petition, failed to consider certain pertinent provisions of law and binding judicial pronouncements. It is argued that this omission amounts to an error apparent on the face of the record, justifying the invocation of review jurisdiction under Order XLVII Rule 1 CPC.

15. At the outset, it is necessary to reiterate the limited scope of review. A judgment may be open to review if there is a mistake or error apparent on the face of the record, or for some analogous reason such as the discovery of new evidence which could not be produced earlier despite due diligence. An error to be apparent must be self-evident and not require a process of elaborate reasoning or re-argument. However, it is equally true that a glaring omission to apply a relevant statute or a clear disregard of a binding authority can manifest as an error apparent, as it strikes at the very basis of the judgment. With these principles in mind, we proceed to examine whether the impugned order suffered from such an error in the context of the facts of the present case.

16. The factual matrix is undisputed. The petitioner-company (corporate debtor) went through an insolvency resolution process under the IBC. The CIRP was initiated upon a Section 7 application by a financial creditor (SREI Equipment Finance Ltd.), which was admitted by the NCLT, Kolkata Bench. An Interim Resolution Professional (IRP) was appointed and a public announcement was made to creditors in accordance with Section 15 of IBC and the relevant regulations. During the CIRP, as mandated by Section 14(1)(a) of IBC, a moratorium was in force prohibiting "the institution of suits or continuation of pending suits or proceedings" against the corporate debtor, including execution of any judgment or order. This moratorium remained effective from the insolvency commencement date (early 2017) until the approval of the resolution plan by the NCLT on 07.11.2017. In the present case, the Income Tax Department's claim for the tax dues of AY 2011-12 was an existing liability of the corporate debtor. The Department, being an operational creditor (to the extent of its tax claim), was expected to file its claim before the IRP within the time stipulated. The record reveals that various government dues totaling ₹30.71 crores were acknowledged in the Resolution Plan, implying that governmental authorities (possibly including the Income Tax Department) had submitted their claims to that extent. The Resolution Plan, after consideration by the Committee of Creditors, was approved by the Adjudicating Authority (NCLT, Kolkata) on 07.11.2017 and subsequently attained finality upon dismissal of an appeal by the NCLAT on 13.12.2018. The successful resolution applicant took over management of the corporate debtor thereafter.

17. The IBC is a special law enacted in 2016 with a stated objective of timely resolution of corporate insolvency, maximizing the value of assets, and promoting entrepreneurship. It introduced a paradigm shift in how corporate debts and liabilities are treated upon reorganization. One of the key provisions is Section 31(1) of the IBC, which stipulates that once a resolution plan is approved by the Adjudicating Authority, it is **binding on all stakeholders**, including the Central Government, any State Government or local authority to whom a debt in respect of the corporate debtor may be owed. In 2019, an explanation was inserted to Section 31(1) to explicitly clarify this binding effect on governmental authorities. The logical corollary is that upon the plan's approval, no creditor (secured or unsecured, including tax authorities) can assert any claim against the debtor except as provided for in the plan. Furthermore, Section 238 of the IBC contains a sweeping non-obstante clause:

> *"The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.."*

18. The Supreme Court has consistently interpreted Section 238 to mean that IBC will prevail in case of any conflict with other statutes. For instance, in ***Duncan Industries*** (Supra) the Court held that the IBC, being a later enactment with a non-obstante clause, overrides even a special statute like the Tea Act, 1953. The relevant excerpt is produced below:

> *"If the submission on behalf of the appellant that before initiation of proceedings under Section 9 of the IBC, the consent of the Central Government as provided under Section 16G(1)(c) of the Tea Act is to be obtained, in that case, the main object and purpose of the IBC, namely, to complete the 'corporate insolvency resolution process' in a time bound manner, shall be frustrated. The sum and substance of the above discussion would be that the provisions of the IBC would have an overriding effect over the Tea Act, 1953 and that no prior consent of the Central Government before initiation of the proceedings under Section 7 or Section 9 of the IBC would be required and even without such consent of the Central Government, the insolvency proceedings under Section 7 or Section 9 of the IBC initiated by the operational creditor shall be maintainable."*

19. This judgment reinforces the well-settled position that the IBC, by virtue of its non-obstante clause under Section 238, overrides any inconsistent provisions in other enactments, including special statutes. Thus, any statutory preconditions or recovery proceedings under other laws, including the Income Tax Act, stand subordinated to the scheme and timeline of the IBC.

20. A crucial aspect of the IBC is the concept of a "fresh start" or "clean slate" for the corporate debtor emerging from insolvency. The Supreme Court's judgment in ***Essar Steel*** (Supra) is the locus classicus on this point. The Court in that case emphasized that all claims against the corporate debtor must be submitted to and decided within the framework of the CIRP, so that the successful resolution applicant knows the exact liabilities he is taking on. It was categorically held that after approval of the resolution plan, a successful resolution applicant cannot suddenly be faced with undecided claims and that allowing such claims would amount to a hydra headed popping up to derail the revival effort. The relevant excerpts are produced below:

> *"For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT judgment must also be set aside on this count."*

21. The resolution applicant is entitled to rely on the finality and comprehensiveness of the resolution plan and proceed to revive the company on that basis. In other words, any claim which is not part of the resolution plan stands extinguished and cannot be enforced against the debtor henceforth. This "clean slate" doctrine, propounded in ***Essar Steel*** (Supra), has since been reinforced by subsequent decisions.

22. In the case of ***Ghanshyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.***[3]**,** the Supreme Court, after reviewing the law, affirmed in unequivocal terms that *"all the dues including the statutory dues owed to the Central Government, if not part of the resolution plan, shall stand extinguished and no proceedings could be continued in respect of such dues"* for the period prior to the approval of the plan. It was further observed that by virtue of Section 31(1) of IBC, once a plan is approved, the authorities are barred from pursuing such claims and the debtor's past liabilities, to the extent not taken up in the plan, are discharged.

23. Very recently, in the case of ***Vaibhav Goel and Anr. v. Deputy Commissioner of Income Tax and Anr.***[4] the Supreme Court reiterated the same principle in the context of income tax demands raised after the plan approval for earlier years. The Court set aside the orders of NCLT and NCLAT which had allowed such post-plan tax demands, holding that income tax dues not included in an approved resolution plan are invalid and cannot be enforced later. It was underlined that permitting a tax authority to raise fresh demands for pre-CIRP periods would frustrate the revival by creating uncertainty and undermining the "clean slate" intended for the new management.

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[3]AIRONLINE 2021 SC 196.
[4]2025 INSC 375

24. These pronouncements leave no room for doubt that any pre-insolvency liability of the corporate debtor, which was not claimed during CIRP or left unresolved by the resolution plan, is no longer recoverable from the debtor.

25. In light of the above legal position, the petitioner's case has substantial merit. The demand in question arises from an assessment order dated 18.03.2014 for the period FY 2011-12 (AY 2012-13). This is a liability that crystalized well before the initiation of CIRP in 2017. Once the CIRP commenced and the moratorium was imposed, the Income Tax Department was legally bound to assert its rights through the insolvency process by filing a claim before the IRP. If it did so, its claim would have been dealt with as per the resolution plan (either paid out in a certain proportion or otherwise addressed). If it failed to lodge a claim, it ran the risk of having that claim extinguished. The approved Resolution Plan (07.11.2017) is now final and binding on the Department by virtue of Section 31(1) of IBC.

26. Notably, the Resolution Plan treated the corporate debtor's statutory tax liabilities in aggregate (₹30.71 crores) and the new management's takeover was predicated on the settlement and extinguishment of all prior claims as provided in the plan. Therefore, any demand or notice issued by the tax authorities outside the plan for a pre-CIRP period is **ipso jure unenforceable**. In our view, the Income Tax Department cannot resurrect the impugned assessment order and demand notice against the corporate debtor after the approval of the plan. In order to allow such action would directly contravene the IBC's mandate and the authoritative pronouncements of the Supreme Court discussed above. In sum, the continuance of the 18.03.2014 assessment order and demand notice is barred by law, the debt underlying these stands extinguished by operation of the IBC.

27. We also find merit in the petitioner's submission that the existence of an alternative remedy under the Income Tax Act did not preclude it from invoking writ jurisdiction in this peculiar situation. Generally, yes, if a statutory appeal mechanism is available, a writ court would be slow to intervene at the first instance. However, this rule of restraint is one of discretion and self-imposed limitation, not a bar of jurisdiction. Where, for example, an order is attacked as being wholly without jurisdiction or where an important question of law or constitutional interpretation arises, the writ Court can justifiably intervene despite alternate remedies.

28. In the present case, the petitioner was not merely challenging an error in the assessment of income or calculation of tax (which would typically be amenable to correction in the appellate hierarchy under the tax statute). Instead, the petitioner's challenge was that, in view of the IBC proceedings and the approved plan, the Department **lacked the authority** to enforce the impugned assessment/demand altogether. This is fundamentally a jurisdictional issue and a pure question of law. Any appeal before the tax appellate forums would not be equipped to adjudicate the overriding effect of the IBC or to quash the demand on that basis; those authorities are creatures of the Income Tax Act and bound by its confines. Thus, the petitioner appropriately invoked the writ jurisdiction of this Court to seek quashing of a patently unlawful demand. In our considered view, the writ petition was maintainable in such circumstances, and the Division Bench's reliance on the alternative remedy rule, without examining the exceptional facts, amounted to a legal oversight.

V. CONCLUSION:

29. From the foregoing analysis, it is evident that the Division Bench in its order dated 02.03.2020 did not address, or was not apprised of, the clear impact of the IBC on the impugned tax demand. The omission to consider these, and the consequent dismissal of the petition on technical grounds, in our view, constitute a manifest error or at least an oversight that is apparent from the record. It resulted in upholding a tax demand that, by virtue of law, was unenforceable. This is the kind of patent error and resultant injustice which falls within the ambit of "any other sufficient reason" akin to an error apparent, warranting exercise of our review power under Order XLVII Rule 1 CPC.

30. For the reasons discussed above, the Review Petition is allowed. In exercise of our jurisdiction under Article 226 of the Constitution, we hold that the assessment order dated 18.03.2014 and the demand notice dated 18.03.2014 (impugned in the Writ Petition) cannot be enforced against the petitioner-company in view of the corporate insolvency resolution process and the Resolution Plan approved for the petitioner-company. Those impugned proceedings are hereby quashed, as the underlying tax claim stands extinguished by operation of Section 31(1) of the IBC read with Section 238 thereof. The Petitioner, having acquired the corporate debtor on a fresh slate, shall not be saddled with the aforesaid tax liability.

31. There shall be no orders as to costs.

(Dr.S.K. Panigrahi)
Judge

G. Satapathy, J.*I agree.*

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 8th August, 2025/