

Learning Curve-1043

May 15, 2024

Demand raised under GST after approval of Resolution Plan stands extinguished if the State has neither approached the RP nor the AA for the same.

CASE TITLE	Patna Highway Projects Ltd. Vs. The State of Bihar & Ors.
CASE CITATION	Civil Writ Jurisdiction Case No.14376 of 2023 with Case No. 2597 of 2024
DATE OF ORDER	April 24, 2024
COURT/ TRIBUNAL	High Court of Patna

BRIEF FACTS:

In two writ petitions, the petitioner CD challenge the demand raised under the Bihar Goods & Services Act, 2017 for assessment years 2020-21 and 2022-23, as having been extinguished for reason of the State Tax Authorities not moving the AA for inclusion of their demand in the Resolution Plan, as debt payable by the CD under IBC.

DECISION:

The Hon'ble High Court of Patna, held that,

“the tax dues for the respective assessment years were not included in the resolution plan. The State has not challenged the resolution plan by way of an Appeal or a proceeding before this Court. The resolution plan has been approved on 10.05.2022 and before that the State has not approached the R.P. or the NCLT.

In the above circumstances, we have to follow the consistent declaration of law made by the Hon'ble Supreme Court in Ghanshyam Mishra, CoC of Essar Steel India Limited and M/s Ruchi Soya (all supra) and the demands raised by the assessment orders, of tax due for the years 2020-21 and 2022-23 stands extinguished; subject only to the contingency of a liquidation proceeding if the resolution plan fails.

Both the writ petitions are allowed restraining the State from proceeding for recovery under the impugned assessment orders.”