

Court No. - 39

Case :- WRIT TAX No. - 1026 of 2024

Petitioner :- M/S Bgr Energy Systems Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Shubham Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Donadi Ramesh,J.

1. Heard Shri Shubham Agrawal, learned counsel for the petitioner and Shri Ankur Agrawal, learned Standing Counsel for the revenue.

2. Challenge has been raised to the order dated 26.04.2024 passed by the respondent no.2 under Section 73 of the U.P. GST Act, 2017.

2. Undeniably the petitioner was issued show cause notice dated 10.04.2024 fixing the date 15.04.2024. It is admitted to the respondent- adjudicating authority that the petitioner submitted partial reply to that notice, dated 12.04.2024. In that it was clearly informed that at that stage the petitioner corporation was undergoing a process of resolution before the Interim Resolution Profession (IRP in short) which has been appointed. Therefore the petitioner informed respondent- adjudicating authority the need to issue appropriate notice and to grant the petitioner time to seek permission of the IRP to contest the adjudication proceedings.

3. No further notice was issued or date was fixed in the adjudication proceedings. The impugned order came to be passed within a fortnight therefrom.

4. Also it is not in dispute that subsequently vide order dated 15.04.2024 passed by the National Company Law Appellate Tribunal, Chennai, the order dated 03.04.2024 passed by the NCLT appointing the IRP has been set aside.

5. As to the current status of the petitioner the petitioner is out of insolvency proceedings.

6. In view of such facts, no useful purpose would be served in keeping this petition pending or calling for a counter affidavit at this stage. Clearly once the petitioner was undergoing resolution before the Interim Resolution Professional and the fact of IRP appointment was communicated to the adjudicating authority, it may not have passed the impugned order during pendency of that CIRP. The umbrella of the Insolvency and Bankruptcy Code was lifted only on 15.04.2024. However that fact could not be informed to the adjudicating authority before it passed the order dated 26.04.2024. In any case the petitioner was not granted any further opportunity thereafter.

7. Accordingly, the impugned order is set aside, the writ petition is **disposed of** as below. Petitioner undertakes to file his detailed reply to the show cause notice within a period of two weeks from today. Thereupon adjudicating authority may fix a fresh date for personal hearing with at least 15 days prior notice to the petitioner. The petitioner undertakes to participate and cooperate in those proceedings such that fresh adjudication order may be passed within a further period of two months.

Order Date :- 29.7.2024

A Gautam

(Donadi Ramesh,J.) (S.D. Singh,J.)