

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT)(Ins) No. 607 of 2019

IN THE MATTER OF:

**Sales Tax Department,
State of Maharashtra.**

...Appellant

Versus

M/s. Aryavart Chemicals Pvt. Ltd. Ors.

...Respondents

Present

For Appellant: Mr. Prashant S. Kenjale Advocate.

**For Respondent: Mr. Amit Kakri I/B Ajay Law Associates for Respondent
No. 2**

ORDER

24.07.2019 This appeal has been preferred by 'Sales Tax Department, State of Maharashtra' against the Order dated 15th April, 2019, passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench in MA. No. 1376 & 1397 of 2018 in CP No. 158/IBC/NCLT/MB/MAH/2017 whereby the Adjudicating Authority approved the Resolution Plan submitted by the 'Osian India'- (2nd Respondent).

Mr. Amit Kakri learned counsel appearing on behalf of the 2nd Respondent (Osian India) rightly submitted that Sales Tax Department is one of the 'Operational Creditor'.

The grievance of the Appellant is that the 'Resolution Plan' is discriminatory as it reduced the claim of the appellant to Rs. 1,375,000/- in place of admitted claim of Rs. 2,21,92,393/- towards JAG-VAT-D-008 Stock.

We find that the claims of 'Sales Tax Department' has been provided with 6.1% of its claim whereas 'Commissioner of Customs' is provided with 5.1% of its claim. It is only the 'ESIC Employees Contribution'; 'ESIC Employers Contribution'; 'Provident Fund Employees'; and 'Provident Fund Employers'; are provided 100% of the amount.

S r. N o .	Creditors			Amount (Rs.)		Amount (Rs.)
	Category	Type	Name	As per books as on 19 th Mar 2018	Claims admitted by IRP/RP	Proposed by Resolution Applicant
4	Other Creditors	Government Dues	Assistant Commissioner of Sales Tax(JAG-VAT-D-008)	23,213,315	22,192,393	1,375,000
			Commissioner of Customs, JNCH, Nhava Sheva,	-	2,157,809	111,000
			ESIC Employees Contribution	19,427	Claims not submitted	19,427
			ESIC Employers Contribution	53,661		53,661
			Provident Fund Employees	1,285,288		1,285,288
			Provident Fund Employers	2,689,494		

The amounts towards 'ESIC Employees Contribution'; 'ESIC Employers Contribution'; 'Provident Fund Employees' and 'Provident Fund Employer' do not come within the meaning of the 'Operational Debt'. Therefore, the Appellant – 'Sales Tax Department' claim an Operational Creditor cannot equated with the ESIC Employees Contribution; ESIC Employers Contribution; Provident Fund Employees and Provident Fund Employers and no discrimination can be alleged.

In absence of any infirmity in the impugned order, this appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

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