

LEGAL UPDATES

ORISSA HC: REJECTS DEMAND NOTICES FOR DUES OF MINING DEPT. BEFORE THE APPROVAL OF THE RESOLUTION PLAN

Orissa HC's division bench composed of Chief Justice Dr S. Muralidhar along with Justice A.K. Mohapatra rejected the demand notices for dues issued by the mining dept. ('Respondent') against Ferro Alloys (undergoing CIRP - 'Appellant') as the demand notices issued by the Respondent were pertaining to before the resolution plan's effective date as per the NCLT under IBC. The Appellant claimed that while applying for renewal of trade license as per the mining rules, ten demand notices issued by the Respondent came to their knowledge, however, as per the approved plan, all payments were clear with no amounts payable as per the demand raised vide admitted claims. HC noted that after the approval of the resolution plan, the same would have a binding effect on the debtors and their respective members, creditors or staff, including union and State Govt., against whom any statutory dues are payable as per sec.31(1) of IBC. The court observed that the Respondent is also bound by the approved resolution plan being a member of the State Govt. The HC quashed the plea of Respondent noting that the State Govt. was not able to put their claims before NCLT as the claims were not approved and NCLT is not the competent authority to comment on the legality herein. In conclusion, citing the Apex court judgment of [Ghanashyam Mishra](#) wherein the Apex Court had held that prior to the approval of the resolution plan, the successful resolution applicant should not get any unannounced claims, on the same lines the HC ruled that "Since all of the impugned demands raised against FACOR pertain to the period prior to the Plan Effective date...all such demands stand automatically extinguished..."