IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) **CWP No. 37049 of 2025**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

(2) **CWP No.2632 of 2026**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

(3) **CWP No. 2209 of 2026**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

(4) **CWP No. 2211 of 2026**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

(5) **CWP No. 2212 of 2026**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

Case Citation: (2026) ibclaw.in 2876 HC
2026:PHHC:070737-DB

(6) **CWP No. 2213 of 2026**

H L Buildwell Private Limited

.....Petitioner

Versus

Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana & Ors.

.....Respondents

(7) **CWP No. 12699 of 2026**

Drish Shoes Ltd.

.....Petitioner

Versus

Union Territory of Chandigarh and others

.....Respondents

Date of decision: 06.05.2026

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present **:** Mr. Aalok Jagga, Advocate,
Mr. Karan Inder Singh, Advocate and
Mr. Nikhil Goyal, Advocate
for the petitioner(s) in CWP-37049-2025, CWP-2632-2026, CWP-2209-2026, CWP-2211-2026, CWP-2212-2026, CWP-2213-2026.

Mr. Vishal Aggarwal, Advocate for the petitioner in CWP-12699-2026.

Mr. Varun Issar, Senior Standing Counsel
for the respondent(s)-Income Tax Department
in CWP-37049-2025, CWP-2632-2026, CWP-2209-2026, CWP-2211-2026, CWP-2212-2026, CWP-2213-2026.

Mr. Kunal Mulwani, Advocate and
Ms. Nikita Garg, Junior Standing Counsel for the respondent(s) in CWP-12699-2026.

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DEEPAK SIBAL, J. (*Oral*)

(1) This judgment shall dispose of seven petitions involving similar facts and questions of law being CWP-37049-2025, CWP-2632-2026, CWP-2209-2026, CWP-2211-2026, CWP-2212-2026, CWP-2213-2026 and CWP-

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12699-2026. However, for the sake of convenience, facts are being taken from CWP-37049 -2025 - HL Buildwell Pvt. Ltd. Vs. Deputy Commissioner of Income Tax, Central Circle-2, Ludhiana and others.

(2) On 26.02.2020, a search and seizure operation under Section 132 of the Income-tax Act, 1961 (for short – the Act) was conducted at the petitioner's premises. On the basis of such operation, for the assessment year 2014-15, after following due process, assessment order dated 12.04.2022 was passed adding to the assessee's income Rs.3,63,36,000/-. Notice of demand dated 12.04.2022, under Section 156 of the Act, requiring the petitioner to deposit the assessed income tax @ Rs.2,39,87,612/- was also issued.

(3) In the meanwhile, through order dated 15.02.2022, a petition filed by the petitioner's creditors was admitted by the National Company Law Tribunal, Bench-VI, New Delhi (for short – NCLT) and moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 (for short - IBC) was declared. Resolution Professional namely Deepak Kumar Garg was also appointed on the suspension of the petitioner's erstwhile management.

(4) The afore referred assessment order and notice of demand, both dated 12.04.2022, were then challenged by the Resolution Professional through filing of an appeal before the Commissioner of Income Tax (Appeals)-5, Ludhiana (for short – the Commissioner) which appeal was dismissed through order dated 28.10.2025.

(5) During the pendency of the appeal, filed by the Resolution Professional, in terms of the assessment order dated 12.04.2022, the respondent - Income Tax Department submitted a claim to the Resolution Professional which was rejected through order dated 29.06.2022, which order

was not challenged by the respondent(s)-Income Tax Department and therefore, attained finality.

(6) After rejection of the respondent-revenue's claim, as above, a resolution plan dated 05.09.2022 was submitted by the Successful Resolution Applicant to acquire the petitioner - corporate debtor which was approved by the NCLT through its order dated 17.08.2023 and since the claim of the respondent-Income Tax authorities, made in terms of the assessment order dated 12.04.2022, stood rejected by the Resolution Professional on 29.06.2022, such claim did not form part of the resolution plan.

(7) It is in the afore circumstances, through the instant petition, the petitioner has knocked the doors of this Court seeking therein quashing of the demand made by the respondent-revenue through assessment order dated 12.04.2022; notice of demand dated 12.04.2022; notice issued under Section 274 read with Section 271(1)(c) of the Act dated 12.04.2022 and the appellate order dated 28.10.2025, passed by the Commissioner.

(8) Learned counsel for the petitioner submits that the impugned demand is unsustainable being in conflict with the law laid down by the Supreme Court in ***Ghanashyam Mishra and Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd. (2021) 9 SCC 657***, wherein it has been held that once a resolution plan has been duly approved by a adjudicating authority under Section 31(1) of the IBC then no claim which does not form part of the resolution plan can be enforced against the new management and that since in the case in hand, the impugned demand did not form part of the resolution plan which was approved by the order of the NCLT dated 17.08.2023, the same cannot be enforced against the petitioner especially

when such claim was raised by the respondent-Income Tax authorities before the Resolution Professional and rejected on 29.06.2022, which order was allowed to attain finality by the respondent(s)-authorities.

(9) Learned counsel for the respondent(s)-Income Tax authorities fairly does not dispute the afore factual position but seeks to enforce the impugned demand against the petitioner on the ground that the assessment proceedings had been initiated and completed before the resolution plan was approved by the adjudicatory authority and that, in any case, this petition was not maintainable as the petitioner had an efficacious remedy to challenge the order of the appellate authority dated 28.10.2025 before the Income Tax Appellate Tribunal.

(10) Learned counsel for the parties have been heard.

(11) The relevant observations by the Supreme Court in ***Ghanashyam Mishra's*** case (supra) read as follows :-

> *"102.1 That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan."*

(12) Thus, once under Section 31(1) of the IBC, a resolution plan of a company under moratorium is approved by the adjudicating authority, the claims, provided in the resolution plan stand frozen and that thereafter only such claims which find mention in the resolution plan can be enforced against the Successful Resolution Applicant.

(13) It is not disputed that the impugned demand did not form part of the resolution plan which was approved by the NCLT through its order dated

Case Citation: (2026) ibclaw.in 2876 HC
2026:PHHC:070737-DB

17.08.2023. In fact, such claim had been duly raised by the respondent-Income Tax authorities before the Resolution Professional which was rejected on 29.06.2022 *i.e.* much prior to the submission of the resolution plan on 05.09.2022. Neither the order of the NCLT dated 17.08.2023 nor the order of the Resolution Professional dated 29.06.2022 were challenged by the respondent-authorities and thus, both these orders were allowed to attain finality.

(14) In view of the afore admitted facts and the proposition of law, settled by the Supreme Court in ***Ghanashyam Mishra's*** case (supra), which squarely applies to the present case, we overrule the objection raised by the respondent-revenue that the petitioner be relegated to filing of an appeal before the Income Tax Appellate Tribunal to challenge therein order of appellate authority and while exercising on writ jurisdiction held that the impugned demand cannot be enforced against the petitioner and resultantly, not only the impugned notices, all dated 12.04.2022 but also the appellate order dated 28.10.2025, passed by the Commissioner, are set aside.

(15) All the seven petitions being CWP-37049-2025, CWP-2632-2026, CWP-2209-2026, CWP-2211-2026, CWP-2212-2026, CWP-2213-2026 and CWP-12699-2026 are allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

06.05.2026 **(LAPITA BANERJI)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

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