

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

**(1) D.B. Civil Revision Petition No. 211/2014**

M/s UltraTech Nathdwara Cement Limited (formerly known as M/s. Binani Cement Limited) having its Registered Office at PS Arcadia Central, 5<sup>th</sup> Floor, 4A Abanindra Nath Thakur Sarani (Camac Street), Kolkata-700016, West Bengal, through Shri Yogesh Kumar Bhatt son of Shri Mali Ram Bhatt, by caste Brahmin, working as Senior Vice President and Authorised Signatory, aged about 57 years, Resident of .....

----Petitioner

Versus

The Commercial Taxes Officer, Anti-Evasion, Circle-II, Jaipur.

----Respondent

Connected With

**(2) D.B. Sales Tax Ref./rev. No. 12/2018**

M/s UltraTech Nathdwara Cement Limited (formerly known as M/s. Binani Cement Limited) having its Registered Office at PS Arcadia Central, 5<sup>th</sup> Floor, 4A Abanindra Nath Thakur Sarani (Camac Street), Kolkata-700016, West Bengal, through Shri Yogesh Kumar Bhatt son of Shri Mali Ram Bhatt, by caste Brahmin, working as Senior Vice President and Authorised Signatory, aged about 57 years, Resident of .....

----Petitioner

Versus

The Commercial Taxes Officer, Anti-Evasion, Circle - II, Jaipur

----Respondent

**(3) D.B. Sales Tax Ref./rev. No. 13/2018**

M/s UltraTech Nathdwara Cement Limited (formerly known as M/s. Binani Cement Limited) having its Registered Office at PS Arcadia Central, 5<sup>th</sup> Floor, 4A Abanindra Nath Thakur Sarani (Camac Street), Kolkata-700016, West Bengal, through Shri Yogesh Kumar Bhatt son of Shri Mali Ram Bhatt, by caste Brahmin, working as Senior Vice President and Authorised Signatory, aged about 57 years, Resident of .....

----Petitioner

Versus

The Commercial Taxes Officer, Anti-Evasion, Circle - II, Jaipur

----Respondent

**(4) D.B. Sales Tax Ref./rev. No. 14/2018**

M/s UltraTech Nathdwara Cement Limited (formerly known as M/s. Binani Cement Limited) having its Registered Office at PS Arcadia Central, 5<sup>th</sup> Floor, 4A Abanindra Nath Thakur Sarani (Camac Street), Kolkata-700016, West Bengal, through Shri Yogesh Kumar Bhatt son of Shri Mali Ram Bhatt, by caste Brahmin, working as Senior Vice President and Authorised Signatory, aged about 57 years, Resident of .....

----Petitioner

Versus

The Commercial Taxes Officer, Anti-Evasion, Circle - II, Jaipur

----Respondent

**(5) D.B. Sales Tax Ref./rev. No. 15/2018**

M/s UltraTech Nathdwara Cement Limited (formerly known as M/s. Binani Cement Limited) having its Registered Office at PS Arcadia Central, 5<sup>th</sup> Floor, 4A Abanindra Nath Thakur Sarani (Camac Street), Kolkata-700016, West Bengal, through Shri Yogesh Kumar Bhatt son of Shri Mali Ram Bhatt, by caste Brahmin, working as Senior Vice President and Authorised Signatory, aged about 57 years, Resident of .....

----Petitioner

Versus

The Commercial Taxes Officer, Anti-Evasion, Circle - II, Jaipur

----Respondent

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For Petitioner(s) : Dr. Sachin Acharya, Sr. Advocate with Mr. Gopal Sandhu.

For Respondent(s) : Mr. Sandeep Bhandawat.

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**HON'BLE MR. JUSTICE SANDEEP MEHTA**  
**HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI**

**J U D G M E N T**

**Judgment pronounced on** ::: **07/05/2022**

**Judgment reserved on** ::: **18/04/2022**

**BY THE COURT : (PER HON'BLE MEHTA, J.)**

The instant batch of Revisions/ Sales Tax References involve common questions of facts and law and hence, the same have been heard and are being decided together by this judgment.

The revisions were originally preferred by the company M/s. Binani Cement Limited which went into liquidation. Insolvency proceedings were initiated by the creditors of the sick undertaking (hereinafter referred to as 'the Corporate Debtor'). The insolvency proceedings were transferred from the NCLT, Kolkata to NCLAT under directions of Hon'ble the Supreme Court which invited claims from financial, statutory and operational creditors of the Corporate Debtor. Resolution plans were also invited from parties interested in revival of sick undertakings. The respondent Commercial Taxes Department submitted its claim before the NCLAT. The resolution plan submitted by M/s.UltraTech Cement Limited was approved by the NCLAT on 14.11.2018 and it was declared to be the Successful Resolution Applicant. Hon'ble the Supreme Court approved the decision of NCLAT vide order dated 19.11.2018.

In terms of Section 31 of the Insolvency and Bankruptcy Code, 2013, the resolution plan, approved by the NCLAT, is binding on all stakeholders including the Operational Creditors, Financial Creditors and the Statutory Creditors, including the respondent Corporate Taxes Department and all claims and dues towards the pending demands, except those approved by the NCLAT, of these creditors stand discharged on the date of transfer of the Corporate Debtor unit to the Successful Resolution Applicant which, in the present case, is 20.11.2018. As a consequence, all

liabilities of the Corporate Debtor, which do not form a part of the resolution plan as well as those which are settled by the NCLAT, were extinguished as on the date of approval of the resolution plan and resultantly, the pending demands raised against the Corporate Debtor would be rendered infructuous. The pre-deposits made by way of mandatory statutory obligation alongwith the appeals, if any, filed under the tax regime and other amounts deposited under protest would become refundable with interest. These revisions are being considered in this backdrop.

Brief summary of the transactions from which demands raised by the department flow and which were the subject matter of the appeals and the amounts deposited by the corporate debtor are narrated below for the sake of ready reference:

**(1) D.B. Civil Revision Petition No. 211/2014**

An order dated 01.08.2012 was passed by the Commercial Tax Officer, Anti Evasion, Rajasthan, Circle-II whereby, the Input Tax Credit allowed by the assessing authority for the period from 01.04.2006 to 31.03.2007, was disallowed. Output Tax on High Speed Diesel purchased against full payment of VAT within the State, was imposed along with penalty and interest thereupon. In this manner, total demand of Rs.4,33,93,123/- was raised against the Corporate Debtor. The demand notice was assailed by filing appeal under Section 82 of the RVAT Act, 2003 and thereafter before the learned Tax Board, Ajmer under Section 83 of the RVAT Act, 2003 which were dismissed by the learned Tax Board vide order dated 26.06.2014. The Corporate Debtor deposited the following amounts "under protest" against the demand raised by

the Commercial Taxes Department and towards statutory pre-deposits:

<b>S.No.</b>	<b>Amount</b>	<b>Deposited On</b>	<b>Deposited By</b>
1.	Rs.11,72,800	12.09.2012	Challan No. 01705109348112092012
2.	Rs.2,44,324	26.10.2012	VAT Receipt No.0040
<b>Total</b>	<b>Rs.14,17,124</b>		

## **(2) D.B. Sales Tax Ref./rev. No. 12/2018**

An order dated 09.09.2013 was passed by the Commercial Tax Officer, Anti Evasion, Rajasthan, Circle-II whereby, the Input Tax Credit allowed by the assessing authority for the period from 01.04.2008 to 31.03.2009, was disallowed. Output Tax on High Speed Diesel purchased against full payment of VAT within the State, was imposed along with penalty and interest thereupon. In this manner, total demand of Rs.72,48,557/- was raised against the Corporate Debtor. The demand notice was assailed by filing appeal under Section 82 of the RVAT Act, 2003 and thereafter before the learned Tax Board, Ajmer under Section 83 of the RVAT Act, 2003 which were dismissed by the learned Tax Board vide order dated 28.12.2017. The Corporate Debtor deposited the following amounts "under protest" against the demand raised by the Commercial Taxes Department and towards statutory pre-deposits:

<b>S.No.</b>	<b>Amount</b>	<b>Deposited On</b>	<b>Deposited By</b>
1.	Rs.2,01,400	09.10.2013	DD No.200568
2.	Rs.14,91,053	29.10.2013	DD No.423119
3.	Rs.1,35,472	25.08.2014	DD No.968042
<b>Total</b>	<b>Rs.18,27,925</b>		

**(3) D.B. Sales Tax Ref./rev. No. 13/2018**

An order dated 13.01.2014 (rectified on 23.01.2014) was passed by the Commercial Tax Officer, Anti Evasion, Rajasthan, Circle-II whereby, the Input Tax Credit allowed by the assessing authority for the period from 01.04.2009 to 31.03.2010, was disallowed. Output Tax on High Speed Diesel purchased against full payment of VAT within the State, was imposed along with penalty and interest thereupon. In this manner, total demand of Rs.1,78,09,546/- was raised against the Corporate Debtor. The demand notice was assailed by filing appeal under Section 82 of the RVAT Act, 2003 and thereafter before the learned Tax Board, Ajmer under Section 83 of the RVAT Act, 2003 which were dismissed by the learned Tax Board vide order dated 28.12.2017. The Corporate Debtor deposited the following amounts "under protest" against the demand raised by the Commercial Taxes Department and towards statutory pre-deposits:

<b>S.No.</b>	<b>Amount</b>	<b>Deposited On</b>	<b>Deposited By</b>
1.	Rs.5,06,000 (Pre Deposit for filing 1 <sup>st</sup> Appeal)	30.01.2014	Challan No. GRN: 0001073717
2.	Rs.10,00,000	27.08.2014	DD No.968068
3.	Rs.50,59,759	05.09.2014	DD No.968128
<b>Total</b>	<b>Rs.65,65,759</b>		

**(4) D.B. Sales Tax Ref./rev. No. 14/2018**

An order dated 13.01.2014 (rectified on 23.01.2014) was passed by the Commercial Tax Officer, Anti Evasion, Rajasthan, Circle-II whereby, the Input Tax Credit allowed by the assessing authority for the period from 01.04.2010 to 31.03.2011, was disallowed. Output Tax on High Speed Diesel purchased against full payment of VAT within the State, was imposed along with

penalty and interest thereupon. In this manner, total demand of Rs.1,87,11,145/- was raised against the Corporate Debtor. The demand notice was assailed by filing appeal under Section 82 of the RVAT Act, 2003 and thereafter before the learned Tax Board, Ajmer under Section 83 of the RVAT Act, 2003 which were dismissed by the learned Tax Board vide order dated 28.12.2017. The Corporate Debtor deposited the following amounts "under protest" against the demand raised by the Commercial Taxes Department and towards statutory pre-deposits:

<b>S.No.</b>	<b>Amount</b>	<b>Deposited On</b>	<b>Deposited By</b>
1.	Rs.5,50,400 (Pre Deposit for filing 1 <sup>st</sup> Appeal)	30.01.2014	Challan No. 0001073807 GRN:
2.	Rs.64,21,852	05.09.2014	DD No.968129
<b>Total</b>	<b>Rs.69,72,252</b>		

#### **(5) D.B. Sales Tax Ref./rev. No. 15/2018**

An order dated 09.09.2013 was passed by the Commercial Tax Officer, Anti Evasion, Rajasthan, Circle-II whereby, the Input Tax Credit allowed by the assessing authority for the period from 01.04.2007 to 31.03.2008, was disallowed. Output Tax on High Speed Diesel purchased against full payment of VAT within the State, was imposed along with penalty and interest thereupon. In this manner, total demand of Rs.88,05,895/- was raised against the Corporate Debtor. The demand notice was assailed by filing appeal under Section 82 of the RVAT Act, 2003 and thereafter before the learned Tax Board, Ajmer under Section 83 of the RVAT Act, 2003 which were dismissed by the learned Tax Board vide order dated 28.12.2017. The Corporate Debtor deposited the following amounts "under protest" against the demand raised by

the Commercial Taxes Department and towards statutory pre-deposits:

<b>S.No.</b>	<b>Amount</b>	<b>Deposited On</b>	<b>Deposited By</b>
1.	Rs.2,36,800 (Pre Deposit for filing 1 <sup>st</sup> Appeal)	09.10.2013	DD No.200567
2.	Rs.6,06,963	29.10.2013	DD No.423118
3.	Rs.89,790	25.08.2014	DD No.968041
4.	Rs.1,620	23.06.2015	Challan No. GRN: 0006733787
<b>Total</b>	<b>Rs.9,35,173</b>		

The controversy regarding fate of all the outstanding dues of the Corporate Debtor M/s. Binani Cement Limited has been settled by Division Bench of this Court vide **judgment dated 07.04.2020** rendered in **D.B. Civil Writ Petition No.9480/2019 (Ultra Tech Nathdwara Cement Ltd. vs. Union of India & Ors.)** observing as below:

“Learned counsel for the petitioner pointed out that the Commercial Taxes Department of Govt. of Rajasthan whose claim for a sum of Rs.479.73 crores was verified just at Rs.61.05 crores by the COC, also approached the Hon'ble Supreme Court of India against the order of the NCLAT and the appeal preferred by them being Civil Appeal No.5889/2010 (Diary No.1920/2019) has been rejected by the Hon'ble Supreme Court vide order dated 26.7.2019. This Court is apprised that the respondent Commissioner of Central Goods and Service Tax and Central Excise Commissionerate, Jodhpur also challenged the order passed by the NCLAT by filing Civil Appeal Nos.630-634 of 2020 (Diary No.21866/2019) before Hon'ble the Supreme Court, which has been dismissed vide order dated 24.1.2020. The Court's attention was drawn to the following averments made in the SLP filed by the Goods and Service Tax Department before Hon'ble the Supreme Court and it was urged that the judgment of the NCLAT approving the resolution plan wherein the government revenue was curtailed by Rs.144.96 crores and was restricted at Rs.72.85 crores was specifically challenged by the Department:

“(i) Whether the Hon'ble NCLAT was justified in approving the Resolution Plan, which is adversely affecting the Government revenue amounting to



Rs.144.96 crore, without giving any opportunity of hearing to the department?

(ii) Whether the Hon'ble NCLAT was justified in approving the Resolution Plan, wherein interest and penalty has been paid till the date of admission of Insolvency process, whereas as per Central Excise and Service Tax Laws interest and penalty has to be paid upto the date of payment of duty?

(iii) Whether the Hon'ble NCLAT was justified in approving the Resolution plan in which as per -

(a) Para 6.5.2.13 "all litigations instituted against the Corporate debtor, initiated or arising and pending before the Transfer date shall stand withdrawn, without any further act, instrument or deed"

(b) Para 6.2.3.5(g) "no amount shall be payable for any liability of the Corporate debtor towards tax, fee, interest or penalty for which the assessment in respect of applicable tax laws have not been completed".

(c) Para 6.5.6 "other than the discharge of the Resolution amount towards the liabilities of the financial creditors, the operational creditors; contingent liabilities and the CIRP costs, no other payment shall be made by the Corporate debtor for any liabilities of Corporate debtor for the period till the transfer date".

He also referred to the following pertinent prayers made in the SLP which stands rejected:

"(a) admit and allow the appeal filed by the appellant against the impugned Final Judgment dated 14.11.2018 passed by the Hon'ble National Company Law Appellate Tribunal, New Delhi in Company Appeal (AT) (Insolvency) Nos. 82, 123, 188, 216 & 234 of 2018; and/or

(b) pass any other or further orders which Your Lordships may deem to be fit and proper in the interest of justice.

.....

Considered in light of the ratio of the above judgment and the stance of Hon'ble the Finance Minister before the upper house of the Parliament, it is clear that the financial creditors have to be given a precedence in the ratio of payments when the resolution plan is being finalized. It is the financial creditors who are given right to vote in the COC whereas, the operational creditors viz. Commercial Taxes Department of the Central Government or the State Government as the case may be, have no right of audience. The purpose of the statute is very clear that it intends to revive the dying industry by providing an opportunity to a resolution applicant

to take over the same and begin the operation on a clean slate. For that purpose, the evaluation of all dues and liabilities as they exist on the date of finalization of the resolution plan have been left in the exclusive domain of the resolution professional with the approval of the COC. The courts are given an extremely limited power of judicial review into the resolution plan duly approved by the COC. In the case at hand, the situation has proceeded much further. The operational creditors i.e. the Commercial Taxes Department of Govt. of Rajasthan as well as the respondent Commissioner of Goods and Service Tax assailed the resolution plan by filing appeals before Hon'ble the Supreme Court with a specific plea that their dues have not been accounted for by the COC in the resolution plan. The objection so raised stands repelled with the rejection of the appeals by Hon'ble The Supreme Court. In addition thereto, it may be mentioned here that from the two possible situations; one being liquidation and the other being revival, the respondents will gain significantly in the later because as per the assessed liquidity value, their dues have been assessed as nil, whereas as per the resolution plan with revival of the industry at the instance of the resolution applicant (the petitioner company herein), their rights have been secured to the extent of Rs.72 crores odd. It may be emphasized here that the amount of Rs.72 crores assessed by the resolution professional in favour of the respondent GST Department has already been deposited by the successful resolution applicant i.e. the petitioner company.

Therefore, we are of the firm opinion that the respondents would be acting in a totally illegal and arbitrary manner while pressing for demands raised vide the notices which are impugned in this writ petition and any other demands which they may contemplate for the period prior to the resolution plan being finalized.

The demand notices are ex-facie illegal, arbitrary and per-seand cannot be sustained."

The issue regarding entitlement of the petitioner M/s. UltraTech being the Successful Resolution Applicant to receive refund of the amounts deposited with the Commercial Taxes Department by way of mandatory statutory has also been concluded by this Court vide **order dated 18.04.2022** passed in a bunch of Sales Tax References/Revisions led by **D.B. Sales Tax Ref./Revision No.9/2021 (M/s. Ultratech Nathdwara**

**Cement Limited vs. The Assistant Commissioner, Commercial Tax Department & Anr.)** wherein it was held:

"Drawing analogy from the conclusions drawn by this court in the judgment dated 07.04.2020, any demand made by the State Commercial Taxes Department in excess of that approved by the NCLAT would have to be struck off and if any amount has already been received over and above what has been approved under the Resolution Plan, the same would have to be refunded.

The Commercial Taxes Department issued the order dated 12.08.2021, whereby it has been resolved as below :-

"अतः IBC-2016 के प्रावधानों (विशेष Section 238) के अनुसरण में National Company Law Appellate Tribunal, new Delhi (NCLAT) द्वारा दिनांक 14.11.2018 को पारित/अनुमोदित किया गया Resolution Plan तथा माननीय सर्वोच्च न्यायालय आदेश दिनांक 19.05.2020 की अनुपालना में उक्त व्यवसायी फर्म के विरुद्ध Transfer Date (25.07.2017) से पूर्व की अवधि हेतु सृजित की गई समस्त बकाया मांग राशि उक्त सारणी (DCR अनुसार) कुल 106 पृष्ठियां एवं संबंधित कुल राशि रु 513.09 करोड़ निस्तारित (Disposed Off) की जाती है। उक्त आदेश अधोहस्ताक्षरकर्ता के कार्यालय द्वारा श्रीमान् अतिरिक्त आयुक्त (कर) वाणिज्यिक कर विभाग राजस्थान (मार्फत उपायुक्त प्रशासन वा.क.पाली) को मार्गदर्शन हेतु लिखे गये पत्रांक 21.12.2020 के संदर्भ में श्रीमान् अतिरिक्त आयुक्त (कर) पत्रांक 391 दिनांक 11.08.2021 (संलग्न) के अनुक्रम में श्रीमान् आयुक्त महोदय वाणिज्यिक कर विभाग राजस्थान से अनुमोदित है।"

Apparently, as per this order, all demands of the Department against the sick unit as they existed prior to date of transfer of the original unit to the petitioner, i.e. 25.07.2017, were disposed of in accordance with the Resolution Plan. The pre-deposits, of which refund is sought by the petitioner, had been made by way of mandatory statutory obligation while filing appeals before the Tax Board as part of the tax liability of M/s. Binani Cement.

However, as all demands raised by the Department for the date prior to the taking over of the sick unit under the Resolution Plan have been disposed of, the appeals pending before the Tax Board became infructuous as the liability of the successful Resolution Applicant, i.e. the petitioner herein, qua the Commercial Taxes Department stood extinguished beyond what has been quantified by the Tribunal.

In the case of **Ghanshyam Mishra & Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd. (supra)**, the Hon'ble Supreme Court examined an identical controversy and held as below :-

"23. The appellant therefore filed a Civil Miscellaneous Writ Petition No. 354/2020 before the High Court of Allahabad challenging the order passed by the Additional Commissioner Grade 2 (Appeal) dated 30.1.2020, to the effect, that the proceedings in the State of U.P. would remain unaffected irrespective of the approval of the Resolution Plan of the appellant by NCLT. The appellant also prayed for a declaration, that all the proceedings pending before different authorities stand abated in terms of the approval of the Resolution Plan by NCLT. A prayer was also made for refund of Rs.248.92 lakhs deposited by the appellant under protest and for return of the Bank Guarantee.

77. It is clear, that the mischief, which was noticed prior to amendment of Section 31 of I&B Code was, that though the legislative intent was to extinguish all such debts owed to the Central Government, any State Government or any local authority, including the tax authorities once an approval was granted to the resolution plan by NCLT; on account of there being some ambiguity, the State/Central Government authorities continued with the proceedings in respect of the debts owed to them. In order to remedy the said mischief, the legislature thought it appropriate to clarify the position, that once such a resolution plan was approved by the Adjudicating Authority, all such claims/dues owed to the State/Central Government or any local authority including tax authorities, which were not part of the resolution plan shall stand extinguished.

95. In the result, we answer the questions framed by us as under:

(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (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;

(ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect;

*(iii) Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.*

*132. The appeal therefore is allowed. The impugned judgment and order dated 6.7.2020 passed by the Allahabad High Court is quashed and set aside. We hold and declare, that the respondents are not entitled to recover any claims or claim any debts owed to them from the Corporate Debtor accruing prior to the transfer date. Needless to state, that the consequences thereof shall follow."*

The controversy at hand is virtually concluded by the observations made at para 132 of the above judgment, wherein Hon'ble Supreme Court has categorically held that the respondents are not entitled to recover any claims or claim any debts owed to them by the corporate debtor accruing prior to transfer date and "**that consequences shall follow**".

As the original assessee, i.e. M/s. Binani Cement Ltd., was compelled to file the appeals with pre-deposits of a percentage of the tax liability by way of mandatory statutory obligation as per the assessment orders issued by the Commercial Taxes Department, the consequential relief pursuant to extinguishment of the demands under the assessment order would definitely require a direction for refund of the amount to the successful Resolution Applicant, i.e. the petitioner herein, who took over the assets and liabilities of the sick unit according to the Resolution Plan approved by the NCLAT.

In the case of ***State of Gujarat Vs. Essar Steel Ltd. (supra)***, Hon'ble Gujarat High Court directed refund of pre-deposit on acceptance of the appeals and decided the issue in favour of the assessee. In the present case, though the appeals have not been accepted, but an analogous situation has been created with acceptance of the Resolution Plan and extinguishment of all debts/liabilities of the sick unit towards the statutory creditor, i.e. the State Government/Commercial Taxes Department.

As a consequence, the consolidated impugned order dated 28.12.2020 passed by the Rajasthan Tax Board, Ajmer in the appeals filed by the petitioner is set aside to the extent the applications filed by the petitioner for refund of pre-deposit amounts with interest were rejected. The amounts deposited by M/s. Binani Cement Ltd. as mandatory statutory obligation while filing the appeals before the Tax Board shall be reimbursed to the petitioner within a period of

three months from today with interest at the rate applicable by law.”

In wake of the discussion made herein above, we are of the view that these Revisions/ Sales Tax References deserve to be and are hereby allowed with the following directions:-

(a) the demands raised by the Commercial Taxes Department against the Corporate Debtor M/s. Binani Cement Limited except to the extent admitted by NCLAT are declared to be infructuous/ are quashed/struck down.

(b) the amounts deposited by the Corporate Debtor under protest and by way of pre-deposit as mandatory statutory obligation while filing the appeals, shall be refunded to the petitioner M/s. UltraTech Nathdwara Cement Limited being the Successful Resolution Applicant with applicable interest as per law within a period of 60 days.

The Revisions/ Sales Tax References are allowed in these terms.

A copy of this order be placed in each file.

**(VINOD KUMAR BHARWANI),J**

**(SANDEEP MEHTA),J**

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