

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'B': NEW DELHI)**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA Nos:- 6296, 6297 and 6298/Del/2016  
(Assessment Years: 2008-09, 2009-10 and 2010-11)**

M/s Castex Technologies Ltd., 4, L.S.C., Bhanot Apartment, Pushp Vihar, New Delhi- 110062.	Vs.	ACIT, Central Circle-30, New Delhi.
<b>PAN No: AAACA8504G</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee By** : Shri Somil Agrawal, Adv.  
**Revenue By** : Ms. Nidhi Srivastava, CIT(DR)

**Per Anadee Nath Misshra, AM**

**(A)** These appeals by Assessee are filed against the order of Learned Commissioner of Income Tax (Appeals)-31, New Delhi, ["Ld. CIT(A)", for short], dated 19.09.2016 for different Assessment Years 2008-09, 2009-10, and 2010-11 respectively. Grounds taken in these appeals of the Assessee are as under:

**ITA No.- 6296/Del/2016**

- "1. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty and passing the impugned order and that too without granting adequate opportunity of being heard and without observing the*

*principles of natural justice.*

2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty of Rs.34,47,254/- and that too without assuming jurisdiction as per law and without considering the facts and circumstances of the case.*
3. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in imposing penalty of Rs.34,47,254/- u/s 271(l)(c) is bad in law and against the facts and circumstances of the case.*
4. *That the assessee craves the leave to add, alter or amend the grounds of appeal at any stage and all the ground's are without prejudice to each other."*

**ITA No.- 6297/Del/2016**

1. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has err in law and on facts in confirming the action of Ld. AO in imposing penalty e passing the impugned order and that too without granting adequate opportunity being heard and without observing the principles of natural justice.*
2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty of Rs. 44,65,232/- and that too without assuming jurisdiction as per law and without considering the facts and circumstances of the case.*
3. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in imposing penalty of Rs.44,65,232/- u/s 271(l)(c) is b law and against the facts and circumstances of the case.*
4. *That the assessee craves the leave to add, alter or amend the grounds of app any stage and all the grounds are without prejudice to each other. "*

**ITA No.- 6298/Del/2016**

1. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty and passing the impugned order and that too without granting adequate opportunity of being heard and without observing the principles of natural justice.*
2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty of Rs.5,06,19,232/- and that too without assuming jurisdiction as per law and without considering the facts and circumstances of the case.*
3. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in imposing penalty of Rs.5,06,19,232/- u/s 271(l)(c) is bad in law and against the facts and circumstances of the case.*
4. *That the assessee craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."*

**(B)** At the time of hearing, the Ld. Counsel for assessee submitted that the assessee has been referred for Insolvency and Bankruptcy proceedings and the petition for the same has been admitted by the National Company Law Tribunal. It was further submitted that Insolvency Resolution Professional has been appointed by the National Company Law Tribunal, for taking over the charge of the company. The Ld. Counsel also placed on record a copy of order dated 16.07.2019 of Income Tax Appellate Tribunal ("ITAT", for short) in the case of Amtek India Ltd. vs. DCIT in ITA nos.- 4954/Del/2014 to 4958/Del/2014 pertaining to Assessment Years 2008-09 to 2011-12, in "A", Bench of ITAT, Delhi. For easy reference, we reproduce the relevant portion of aforesaid order dated 16.07.2019 as under:

*"2.0 At the time of hearing, the Ld. AR submitted that these group of appeals belonging to the Amtek Group have been referred to Insolvency and Bankruptcy and the petition for the same has. been admitted by the National Company Law Tribunal, Chandigarh. Bench vide its order dated 20.12,2017. It was further submitted that Insolvency Resolution Professional has been appointed by the National. Company Law Tribunal, Chandigarh Bench vide its order dated 22.12.2017 for-taking over the charge of the company. The Id, AR also placed on record a copy of order in the case of Amtek Mug Gears Ltd. which is a group company for assessment years 2008-09 to 2011-12 wherein vide a consolidated order dated 17 35 2019, 'A' Bench of the Tribunal has dismissed the old appeals filed by the assessee as well as of the revenue on the ground that since according to the provisions of section 14 of the Insolvency and Bankruptcy Code, 2016, a moratorium had been declared and the continuation of any pending suit is barred and, therefore till the insolvency process continues, these appeals cannot be proceeded with. The Id. AR submitted that a similar order dismissing the appeals of the revenue as well- as the assessee may be passed in these batch of appeals also.*

*2.1 The Id. C.I.T. DR had no objection to this request of the Id. AR.*

*3. Having heard both the parties, we agree with the contention of the id, AR, According to the provision of section 14 of the Insolvency and Bankruptcy Code 2016, the moratorium, has been declared and the continuation of*

*any pending suit is barred. Therefore, till the insolvency process continues, these appeals cannot be proceeded with. In view of this, till the company is revived in terms of the Income Tax Act, 1961 {hereinafter referred to as "the Act"}, any appeal filed by the assessee and the Id. AO becomes infructuous. Therefore, we dismiss all the appeals filed by the assessee as well as the revenue. However, in the interest of justice, we give liberty to the assessee as well as to the revenue- to file an application for revival of these appeals as and when the moratorium period is over or revival of the company takes place. Meanwhile, all the appeals filed by the assessee as well as by the revenue are dismissed."*

**(B.1)** The Ld. Counsel for assessee submitted that in the aforesaid order dated 16.07.2019, the ITAT had, in similar facts and circumstances; dismissed the appeals filed by the assessee as well as by Revenue, on the ground that since according to the provisions of Section 14 of the Insolvency and Bankruptcy Code, 2016, a moratorium had been declared and the continuation of any pending suit is barred and therefore, till the insolvency process continues, these appeals cannot be proceeded with. The Ld. Counsel for assessee also submitted that a similar order dismissing the appeals of the Assessee may be passed in these batch of appeals also. The learned Commissioner of Income Tax (Departmental Representative) ["Ld. CIT(DR)", for short) had no objection to this request of the Ld. Counsel for assessee.

**(C)** We have heard both the parties. We have also perused the materials available on record. According to the provision of Section 14 of the Insolvency and Bankruptcy Code, 2016, the moratorium has been declared and the continuation of any pending suit is barred. Therefore, till the insolvency process continues, these appeals cannot be proceeded with. In view of this, till the company is revived in terms of the Income Tax

Act, 1961 ("I.T. Act", for short), these appeals need not be adjudicated presently. In view of the foregoing, and as both sides have agreed to this at the time of hearing before us; we dismiss these appeals. However, before we leave, in the interest of justice, we give liberty to the assessee to file an application for revival of these appeals, if deemed fit, in accordance with law, as and when there is material change in facts and circumstances, such as when the moratorium period is over or when revival of the company takes place. Meanwhile, all the appeals filed by the assessee are dismissed.

**(D)** In the result, appeals filed by the assessee are dismissed.

Order is pronounced in Open Court on 29/11/19.

Sd/-

**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Sd/-

**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 29/11/19  
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	