

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: "A" NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.2380/Del/2016**

**Assessment Year: 2010-11**

JNC Construction (P) Ltd., G-128, Preet Vihar, New Delhi. Vs ACIT, Range-4, New Delhi  
PAN : AABCJ0716G

Applicant

Respondent

**Assessee by Sh. P.C. Yadav, Advocate  
Revenue by SanjogKapoor, Sr. DR**

**Date of Hearing 9/12/2019  
Date of Pronouncement 9/12/2019**

**ORDER**

**PER K. NARASIMHA CHARY, JM**

Aggrieved by the Order dated 29/02/2016 in appeal number Del/CIT(A)-5/0129/2013-14/543 passed by the Ld. Commissioner of Income Tax (Appeals)-5 Delhi, ("Ld. CIT(A)"), M/s JNC constructions Pvt. Limited ("the Assessee") preferred this appeal.

2. Assessee is a company in which public is not substantially interested. The assessee is engaged in the business of real estate. For the assessment year 2010-11, assessee filed the return of income on 14/10/2010 declaring an income of Rs. 92,39,209/-. Assessment was, however, complete under section 143(3) of the Income Tax Act, 1961 (for short "the Act") at Rs. 4,35,13,530/-after making several additions.

3. Aggrieved by such additions assessee preferred an appeal before the Ld. CIT(A) who by way of impugned order gave partial relief to the assessee and allowed the appeal in part. Aggrieved by such findings of the Ld. CIT(A) where the assessee is unsuccessful, assessee preferred this appeal on several grounds.

4. At the outset, the Ld. AR submitted that a petition under section 7 of the Insolvency and Bankruptcy Code, 2016 was preferred before the National Company Law Tribunal (NCLT), Principal Bench, New Delhi in CP No IB-272 (PB)/2019 and by order dated 30/5/2019 the NCLT declared moratorium in terms of section 14 of the Code, and are directed that interior insolvency resolution professional to make public announcement with regard to the admission of the application under section 7 of the Code. He produced the copy of the above order.

5. We have perused the record in the light of the submissions made by the Ld. AR. It could be seen from the record, that the assessee company has been referred to the National Company Law Tribunal (NCLT) under the Insolvency and a Bankruptcy Code, 2016 ("the Code") and moratorium in terms of section 14 of the Code, was granted by the NCLT. In the circumstances, till the moratorium period is over, no proceedings against this company could be carried forward and even thereafter also the proceedings should be carried forward only by the Insolvency Resolution Professional (IRP) on the approval of the Committee of Creditors. The present appeal filed by the assessee is, therefore, not in accordance with the code, since it is not filed by the IRP, but filed by the company which does not have any locus standi in the present situation. If

the Committee of Creditors approves, then a separate appeal may be filed by the IRP.

6. Thus, while granting liberty to the IRP to file a properly constituted appeal with the approval of the Committee of Creditors, we are of the considered opinion that this appeal cannot be allowed to be prosecuted any further.

7. The appeal of the assessee is accordingly dismissed.

**Order pronounced in the Open Court on 9<sup>th</sup> December 2019.**

Sd/-

**(R.K. PANDA)**

**ACCOUNTANT MEMBER**

**Dated: 9<sup>th</sup> December, 2019**

Copy forwarded to:

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

Sd/-

**(K. NARASIMHA CHARY)**

**JUDICIAL MEMBER**

**ASSISTANT REGISTRAR  
ITAT NEW DELHI**