

आयकर अपीलिय अधीकरण, न्यायपीठ –“A” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
[Before Shri J. Sudhakar Reddy, AM and Shri A. T. Varkey, JM]

I.T.A. No. 108/Kol/2015
Assessment Year: 2010-11

Deputy Commissioner of Income-tax, circle-1(1), Kolkata.	Vs.	M/s. Marsons Ltd. (PAN: AABCM9906M)
Appellant		Respondent

&

C.O. No.20/Kol/2015
In I.T.A. No. 108/Kol/2015
Assessment Year: 2010-11

M/s. Marsons Ltd.	Vs.	Deputy Commissioner of Income-tax, circle-1(1), Kolkata.
Appellant		Respondent

Date of Hearing	11.02.2021
Date of Pronouncement	19.02.2021
For the Appellant	Shri Dhrubajyoti Roy, JCIT
For the Respondent	Shri K. M. Roy, FCA

ORDER

Per Shri A. T. Varkey, JM:

The appeal preferred by the revenue and the Cross Objection preferred by the assessee are against the order of Ld. CIT(A)-1, Kolkata dated 15.09.2014 for AY 2010-11.

2. At the outset, the Ld. AR of the assessee Shri K. M. Roy, FCA drew our attention to the fact that the NCLT, Kolkata Bench in C.P. (IB) No. 628/KB/2018 in the matter of Insolvency and Bankruptcy Code, 2016 in the case of assessee has accepted the resolution plan and has passed order dated 09.05.2019 wherein at page 44 of the resolution plan the relevant portion of the accepted plan is as under:

“Liabilities accrued/due under Statutory Dues – Approval of the Resolution Plan will be treated as Waiver Approval by NCLT for all Statutory Dues accrued or may get accrued due to Past Liabilities as on insolvency commencement date to the Statutory Authorities i.e. Department concerned with income Tax, Sales Tax/VAT/GST, Excise, Entry Tax, Municipality,

Land Due, Water Department Dues etc. by way of Taxes, Fees, Penalties, penal Interest, Damages, TDS, VAT, GST etc. over and above the Amount stated in the Resolution Plan.

Liabilities/Litigations/Disputes/Appeals with Income Tax Dept. Approval of the Resolution Plan will be treated as Waiver Approval by NCLT for all Liabilities (including contingent Liabilities, Disputed Liability, Interest, penal Interest, penalty, Interest on Penalty, any kind of Late Fee as well as Taxes) related to income Tax and any demand related to non-deposit of TDS which may arise out of any Ongoing Disputes Known or in abeyance and Unknown to RAs upto the end of the Resolution Process be treated as Finally Settled at "NIL Value".

3. And we note that the resolution plan filed by the corporate debtors which has been approved by the COC has been accepted by the NCLT under the provision of section 31(1) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016"). We note that this order is binding on the corporate debtor, its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan. In the light of the above, the Ld. AR submits that the order of NCLT is binding on the Income Tax Department and the Hon'ble Apex Court in the case of PCIT Vs. Monnet Ispat & Energy Ltd., SLP No.6487 of 2018 dated 10.08.2018 opined the overriding nature and supremacy of the provision of IBC, 2016. In view of the aforesaid Resolution Plan approved by the NCLT, we note that this appeal filed by the revenue cannot be further pursued by them and, therefore, the appeals have to be dismissed.

4. Coming to assessee's Cross Objection. The Ld. AR does not want to press the same, in the light of the developments [NCLT order (supra)]. Therefore, Cross Objection of assessee is dismissed.

5. In the result, the appeal of revenue and Cross Objection of assessee are dismissed.

Order is pronounced in the open court On 19th February, 2021.

Sd/-

(J.S. Reddy)
Accountant Member

Sd/-

(A. T. Varkey)
Judicial Member

Dated: 19.02.2021

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Circle-1(1), Kolkata.
2. Respondent – M/s. Marsons Ltd., Premier Court, 4, Chandni Chowk Street, Kolkata-700 072.
3. The CIT(A)- 12, Kolkata (sent through e-mail)
4. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata