

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "A", BANGALORE**

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.1524/Bang/2019: Asst.Year 2011-2012
ITA No.1525/Bang/2019: Asst.Year 2012-2013
ITA No.294/Bang/2020: Asst.Year 2014-2015

M/s.V3 Engineers Private Limited #6/1, 6/2 & 7/1 Deganahalli Near Budihal Vilalge Nelamangala Taluk Bangalore – 562 123. PAN : AABCV0796Q.	v.	The Income Tax Officer Ward 12(2) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Sivaprasad Reddy, Advocate
Respondent by : Sri.Rajendrakumar Mishra, CIT-DR
Sri.Kannan Narayanan, JCIT-DR

Date of Hearing : 25.08.2021	Date of Pronouncement : 25.08.2021
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ORDER

Per George George K, JM

These appeals at the instance of the assessee are directed against two orders of the CIT(A). For assessment years 2011-2012 and 2012-2013, the CIT(A) has passed a consolidated order dated 19.03.2019. For assessment year 2014-2015, the CIT(A)'s order is dated 25.03.2019.

2. In the grounds of appeal for assessment years 2011-2012, 2012-2013 and 2014-2015, various issues are raised. However, at the time of hearing before the ITAT, the learned AR submitted that the assessee-company was going through insolvency resolution proceedings under the Insolvency and Bankruptcy Code, 2016 in CP (IB) No.315/BB/2019. It was

stated that the Hon'ble National Company Law Tribunal (NCLT) has approved the 'Resolution Plan' vide its order dated 21.09.2020 in IA No.394 of 2020 in CP(IB) No.315/BB/2019. It was stated that as per the approval plan, all the dues of the assessee-company shall be extinguished and written off in full. In this context, reference was invited to para 2(9)(8)(ii) & (iv) of pages 8 & 9 of the order of the NCLT. According to the learned AR, in view of the NCLT order dated 21.09.2020, all the pending proceedings including proceedings under the Income-tax Act, 1961 shall abate. A copy of the said order of the NCLT is placed on record. In furtherance to the submissions made, the learned AR has also relied on the Hon'ble Apex Court judgment in the case of Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. in Civil Appeal Nos.8129 of 2019, order dated 13th April, 2021, wherein the Hon'ble Apex Court, according to the learned AR, was pleased to hold that once resolution plan is approved by the adjudicating authority u/s 31(1) of IBC, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtors and its employees, members, creditors, including Central Government. According to the learned AR, it is further declared by the Hon'ble Supreme Court that all claims not part of the 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.

3. The learned Departmental Representative submitted that NCLT order being dated 21.09.2020, was never subject matter of consideration by either the A.O. nor the CIT(A). It was

further submitted by the learned AR that since the assessee had contended that no recovery proceedings can be initiated against the assessee in view of NCLT order dated 21.09.2020, the assessee ought to have withdrawn these appeals.

4. We have heard rival submissions and perused the material on record. It is an admitted fact that the assessee was going through insolvency and resolution proceedings under the Insolvency and Bankruptcy Code, 2016 in CP(IB) No.315/BB/2019. The NCLT has approved the resolution plan vide its order dated 21.09.2020 in IA No.394 of 2020 in CP(IB) No.315/BB/2019. For assessment year 2014-2015 before the CIT(A) the assessee was not represented. Moreover, the NCLT order was passed subsequent to the appellate order for assessment year 2011-2012, 2012-2013 and 2014-2015. Hence, the Income Tax Authorities did not have an occasion to go through the same to examine the impact of the Income-tax dues with reference to the approval of the 'resolution plan' by NCLT in its order dated 21.09.2020. In the interest of justice and equity, we are of the view that the contentions raised before the Tribunal as regards the order of NCLT and its implications on the Income-tax dues are restored to the files of the CIT(A). The CIT(A) shall take a decision as regards the dues towards Income-tax vis-à-vis the acceptance of the resolution plan by the NCLT and the impact of the decision of the Hon'ble Apex Court in the case of Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. (supra). It is ordered accordingly.

5. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 25th day of August, 2021.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 25th August, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-7, Bengaluru
4. The Pr.CIT-7,Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore