

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI AMARJEET SINGH, JUDICIAL MEMBER  
[Through Video Conferencing]**

ITA No.6961/Del/2017  
Assessment Year: 2005-06

**And**

ITA No.6962/Del/2017  
Assessment Year: 2006-07

**And**

ITA No.6963/Del/2017  
Assessment Year: 2007-08

DCIT, Circle-17(1), New Delhi	<b>Vs.</b>	M/s. Monnet Ispat & Energy Ltd., 11, Masjid Moth, Greater Kailash, Part-II, New Delhi
<b>PAN : AAACM0501D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Gaurav Pundir, Sr.DR
Respondent by	Sh. V.K. Jain, CA Sh. Vikas Singh, CA

Date of hearing	26.08.2021
Date of pronouncement	27.08.2021

**ORDER**

**PER O.P. KANT, AM:**

These three appeals filed by the Revenue are directed against respective orders dated 30/06/2017; 30/06/2017 and

14/07/2017 passed by the learned Commissioner of Income-tax (Appeals)-2, New Delhi [in short 'the Ld. CIT(A)'] for assessment years 2005-06, 2006-07 and 2007-08 respectively. Being identical issues involved in all these appeals, these appeals were heard together and disposed off by way of this consolidated order for the sake of convenience.

**2.** At the outset, the learned counsel of the assessee submitted that in the case of the company resolution order has been passed by the Hon'ble National Company Law Tribunal under Insolvency and Bankruptcy Code, 2016 and held that demands of any payable to Central Government will be deemed to be permanently extinguished. He further submitted that Tribunal 'E' Bench, New Delhi in the case of the assessee for assessment year 2013-14 has dismissed the appeal of the Revenue on same reasoning.

**3.** The learned DR could not controvert the above factual finding.

**4.** We have heard rival submission of the parties and perused the relevant material on record. We find that Tribunal in the case of the assessee in ITA No. 173/Del/2018 for assessment year 2013-14, dismissed the appeal of the Revenue. The factual observations made by the Tribunal (supra) are reproduced as under:

*"2. At the outset, it is submitted on behalf of the assessee that the assessee defaulted in repayment of outstanding secured loans to various creditors, and on the application of State Bank of India, one of the Secured financial creditors of the company, Hon'ble NCLT admitted the petition u/s. 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), declared moratorium and finally passed final order u/s. 31 of the IBC on 24 07 2018, approving the resolution plan filed by the successful resolution applicant. In that process, the NCLT observed that the Resolution Professional determined the liquidation value of the company as Rs.23,56,35,25,186/- whereas the total*

*amount of admitted secured financial creditors is Rs.9772 crores and the admitted claims of the unsecured financial creditors is Rs.1243 crores, put together Rs.1,14,78,09,50,325/-, and by this difference, the liquidation value of the assets of the assessee is not even sufficient to satisfy the admitted claim of the secured financial creditors in full and, therefore, the liquidation value due to the unsecured financial creditors, operational creditors and other creditors of the assessee as per waterfall mechanism mentioned under section 53 of the Code is nil. It was further observed that in respect of the treatment of other creditors, this approved resolution plan discloses that all other liabilities and obligations of the assessee are being extinguished in full and all litigations and proceedings in respect to debts pending against the assessee prior to commencement of CIRP shall stand abated as the liquidation value due to those creditors, as per the waterfall mechanism in section 53 of the Code is Nil.”*

**4.1** Further, the Tribunal in the background of the above facts, held as under:

*“5. We have gone through the record in the light of submissions made on either side. Dues to the Income-tax Department are reflected in list - 8 appended to the order dated 24.07.2018 passed by the NCLT. By such order, NCLT observed that there is a huge difference in the total amount of admitted secured financial creditors which is to the tune of Rs 1,14,78,09,50,325/- and the liquidation value of the company to the tune of Rs.23,86,35,25,186/- and therefore, by application of the waterfall mechanism mentioned in section 53 of the Code, the liquidation value due to unsecured financial creditors, operational creditors and other creditors of the assessee becomes nil. It is clear that in terms of the resolution plan as approved by the NCLT, all claims or demands or liabilities or obligations owed or payable to or assessed by or assessable by the Central Government/State Government in relation to any period prior to the acquisition, will be written off in full and will be deemed to be permanently extinguished. This position of law is clear in view of the decision of Hon'ble Supreme Court in the case of Ghanushyam Mishra and Sons vs. Edieweiss Assets Reconstruction Company Ltd, (Civil appeal No.8129/2019 - Order dated 13/04/2021).*

*6. In these circumstances, we are of the considered opinion that the dues to the Income-tax Department for the assessment year 2013-14, which are reflected in the list-B appended to NCLT order stood fully extinguished and no useful purpose would be served by adjudicating this matter. With this view of the matter, we dismiss the appeal of the Revenue.”*

**4.2** Respectfully, following the findings of the Tribunal (supra), the instant appeals of the Revenue are dismissed as no useful purpose would be served by adjudicating the matter involved in appeals as dues of the Income Tax Department stands permanently extinguished.

**5.** In the result, all the three appeals of the Revenue are dismissed.

***Order pronounced in the open court on 27<sup>th</sup> August, 2021.***

***Sd/-***  
**(AMARJEET SINGH)**  
**JUDICIAL MEMBER**

***Sd/-***  
**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated: 27<sup>th</sup> August, 2021.

RK/-(DTDC)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi