

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G": NEW DELHI  
BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(Through Video Conferencing)

ITA No. 1092/Del/2015  
(Assessment Year: 2010-11)

ACIT, Circle-22(1), New Delhi	Vs.	Samtel Color Ltd, Plot No. 7, 6 <sup>th</sup> Floor, TD Centre Jasola District Centre, Jasola, New Delhi PAN: AAACS6589D
(Appellant)		(Respondent)

Revenue by :	Shri H. K. Chaudhary, CIT DR
Assessee by:	None
Date of Hearing	13/09/2021
Date of pronouncement	13/09/2021

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the Assistant Commissioner of Income Tax, Circle – 22(1), New Delhi (the learned AO) in ITA No. 1092/Del/2015 for assessment year 2000-11, against the order passed by the learned Commissioner of Income Tax (Appeals)- 8, New Delhi dated 10/12/2014; wherein, the appeal filed by the assessee against the order passed by the learned Assessing Officer u/s 143(3) of the Income Tax Act on 27/02/2013, determining total income of the assessee at Rs Nil against the returned income of the assessee filed on 24/9/2010 at Rs. Nil, was partly allowed.
2. The learned Assessing Officer is aggrieved with the order of the learned CIT(A) wherein he
  - a. deleted the disallowance of depreciation of ₹ 96,97,893/-,
  - b. deleted the disallowance of ₹ 9,46,000/- on account of disallowance of bad debts,
  - c. deleted the disallowance of ₹ 48,258,956 u/s 43B of the act,

- d. deleted the disallowance of ₹ 11,26,970 u/s 14A of the Income Tax Act and
- e. also deleted the addition of ₹ 60,53,69,000/- on account of waiver of principal amount by the lenders.

The learned assessing officer has raised all these issues in the grounds of appeal.

3. The hearing of the appeal was fixed on 13<sup>th</sup> September 2021 where the assessee remained un-presented. This is the 14<sup>th</sup> time this appeal has been listed for hearing and on 13<sup>th</sup> occasions, assessee remained absent. No adjournment application is also received. On one occasion one advocate, Mr. Nikunj Harria remained present. One handwritten note appears in the file, which shows that he is appearing on behalf of liquidator of Samtel Colour Ltd (the respondent).
4. The learned CIT DR submitted that above appeal has been filed by the learned assessing officer.
5. We have carefully considered the request of the learned CIT DR and find that above company has undergone the insolvency proceedings is directed by the National Company Law Tribunal, Delhi Bench as per order dated 7<sup>th</sup> September 2017 where it has gone for a commencement of corporate insolvency resolution process. Mr. Sanjay Gupta, an insolvency professional LLP, E-10A, basement, Kailash Colony, Greater Kailash – 1, New Delhi 110048 has been appointed as interim resolution professional. In view of the above facts, it is apparent that the above company has undergone corporate insolvency resolution proceedings under the Insolvency and Bankruptcy Code, 2016. Further, at some point of time, an advocate on behalf of official liquidator is also appeared. This happened on 12<sup>th</sup> of June 2019 wherein the bench pronounced the date in the presence of the both the parties fixing the date of hearing on 26<sup>th</sup> of August 2019 however after that there is no representation from any party on behalf of the assessee.
6. Even otherwise, if the company has gone into liquidation, the revised Form No. 16 required to be filed by the assessee bringing the official liquidator on record as respondent. If the company is still under the

insolvency resolution process, it is covered by the moratorium contained therein.

7. In view of this, the above appeal filed by the learned Assessing Officer is not maintainable and hence dismissed. However, we give liberty to the Assessing Officer to file either this appeal once again bringing the official liquidator on record as respondent or if the company has gone out of corporate insolvency successfully, to pursue the appeal further by identifying the correct respondent.
8. In the result, appeal filed by the learned Assessing Officer is dismissed for statistical purposes.

Order pronounced in the open court on conclusion of hearing on 13<sup>th</sup> September 2021.

-Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER

-Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated:13/09/2021  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi