

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA No.2551/Del./2017
(Assessment Year : 2014-15)**

M/s. Global Energy Pvt. Ltd., vs. DCIT, Circle 10 (1),
6th Floor, Le Meridian Commercial Tower, New Delhi.
Raisina Road,
New Delhi – 110 001.

(PAN : AACCG1351K)

**ITA No.5413/Del./2017
(Assessment Year : 2014-15)**

DCIT, Circle 10 (1), vs. M/s. Global Energy Pvt. Ltd.,
New Delhi. 6th Floor, Le Meridian Commercial Tower,
Raisina Road,
New Delhi – 110 001.

(PAN : AACCG1351K)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Tarandeep Singh, Advocate

REVENUE BY : Ms. Sunita Singh, CIT DR

Ms. Kirti San Kratyayan, Senior DR

Date of Hearing : 30.09.2021

Date of Order : 30.09.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Present cross appeals filed by the assessee as well as by the revenue are being disposed off by way of composite order to avoid repetition of discussion.

2. Ld. Counsel for the assessee brought on record copy of **order dated 02.12.2019 passed by the National Company Law Tribunal (NCLT) in case of Valuelabs LLP vs. M/s. Global Energy Private Limited**, available at pages 1 to 11 of the paper book, whereby Resolution Professional as Liquidator has been appointed to carry out the functions of the assessee company under section 22 (2) of the Insolvency and Bankruptcy Code, 2016(for short 'the Code'). Operative part of the order dated 02.12.2019 (supra) is reproduced as under :-

“21. The Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate debtor defaulted in paying the outstanding unpaid invoices raised by the Petitioners in terms of the Power Purchase Agreement and addendums thereto and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under of Section 9 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

- I.
 - (a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
 - (b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*
 - (c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect*

of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(d) the recovery of any property by an owner or lessor where such property is occupied' by or In the possession of the Corporate Debtor.

- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or Interrupted during moratorium period.*
- III. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*
- IV. That the order of moratorium shall have effect from 02.12.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.*
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.*
- VI. That this Bench hereby appoints, Mr. L V Shyamsundar, having address at 3rd Floor, No.17, Gandhi Road, Alwarthirunagar, Opp. To Vinayagar Temple & Above Samyuktha Scans ,Chennai,Tamll Nadu, 600087 having Registration No. IBBjIPA-002/IP-N00262/2017-18/10775 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.”*

3. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

4. Provisions contained under section 238 of “the Code” are having an overriding effect over all other Central and State statutes including Income-tax Act as held by **Hon’ble Supreme Court in**

case of PCIT vs. Monnet Ispat and Energy Ltd. SLP (C)
No.6483 of 2018 order dated 10.08.2018 by returning following findings :-

“Given section 238 of the Insolvency and Bankruptcy Code, 2016, it is obvious that the Code will override anything inconsistent contained in any other enactment, including the Income-tax Act.”

5. In view of the matter, section 238 of the Code will have overriding effect over all other Central and State statutes including the Income-tax Act and all the claims including claim of the Income-tax Department under the Income-tax Act, 1961 shall be entertained by the Official Liquidator u/s 53 (1) of the Code. Keeping in view all these facts, ld. AR for the assessee stated at Bar that he does not press this appeal and same may be dismissed as withdrawn. Consequently, appeal filed by the assessee as well as by the Revenue are dismissed having been become infructuous. However, assessee as well as Revenue are at liberty to re-file the appeal, if so required.

Order pronounced in open court on this 30th day of September, 2021 after the conclusion of the hearing through video conference.

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

sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Dated the 30th day of September, 2021
TS