

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA No.696/Del./2016
(Assessment Year : 2010-11)**

M/s. Global Energy Pvt. Ltd., vs. ACIT, Circle 10 (1),
6th Floor, Le Meridian Commercial Tower, New Delhi.
Raisina Road,
New Delhi – 110 001.
(PAN : AACCG1351K)

**ITA No.1090/Del./2016
(Assessment Year : 2009-10)**

**ITA No.1091/Del./2016
(Assessment Year : 2010-11)**

ACIT, Central Circle 4, 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 : Shri Umesh Takyar, Senior DR

Date of Hearing : 09.11.2021
Date of Order : 09.11.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Since common questions of facts and law have been raised in the aforesaid appeals, the same are being disposed off by way of consolidated 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,Tamil Nadu, 600087 having Registration No. IBB/IIPA-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. At the very outset, it is brought to our notice by the Id. AR for the assessee that in view of the **order dated 02.12.2019** (supra) passed by the NCLT in assessee's own case, other appeals concerning assessee bearing ITA Nos.2551/Del/2017 & 5413/Del/2017 for AY 2014-15 have already been dismissed having been become infructuous vide order dated 30.09.2021. Copy of order is available on the paper book at pages 25 to 28.

5. 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.”

6. 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, appeals 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 9th day of November, 2021 after the conclusion of the hearing through video conference.

**SD/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER**

**SD/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 9th day of November, 2021
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-23, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**