

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SHRI VIKAS AWASTHY, JM AND SHRI PRASHANT MAHARISHI, AM

ITA No. 2733/Mum/2014

(Assessment Year 2009-10)

Monotona Tyres Ltd. Gut No.279, 286, 287(P) Dakivali Village Bhiwandiwada RD, Near Tansa River, Taluka Wada Dist. Thane-421312	Vs.	The Commissioner of Income Tax, Cir-6, Room No.507, 5 th Floor, Aayakar Bhavan, MK Road, Mumbai-400 020
(Appellant)		(Respondent)
PAN No. AAACM6126C		

Assessee by	:	None
Revenue by	:	Shri Sanjay Deshmukh, DR

Date of hearing:	21.02.2022
Date of pronouncement :	23.02.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No.2733/Mum/2014 is filed by Monotona Tyres Ltd. against the orders passed by the Commissioner of income-tax (Appeals)-6 Mumbai (the learned CIT(A)) for Assessment Year 2009-10 on 20th February, 2014 under section 263 of the Act. The assessee has challenged the impugned order.
02. At the time of hearing the record shows that the National Company Law Tribunal, Mumbai (NCLT) has passed an order dated 30th November, 2018 under section 9 of IBC,



2016, wherein the company is undergoing corporate insolvency resolution process. This was communicated by Mr. Manoj Kumar Mishra, interim resolution professional vide letter dated 13.02.2019 enclosing the order of the NCLT. Subsequent to that the case is fixed for hearing on several occasions but none appeared on behalf of the assessee/ IRP.

03. On perusal of form No.36, it was found that it has been signed by Mr. Rajesh Kumar Sharma stated to be the Director of the assessee company. On passing of the order by NCLT , the Board of Director of the company ceased to exist and the IRP as directed by the committee of the creditors substitute it. Before us, as form No.36 is verified by the Director of the company and not by the IRP, therefore same is not signed by the person authorised to sign Return of Income of Assessee company . Thus appeal is not maintainable as it is not verified properly.
04. In view of this appeal is dismissed as not maintainable. However, liberty is given to the assessee/ IRP that if they would like to pursue the matter, the revised form No. 36 duly signed by the person who is authorized to file return of income on behalf of the assessee may be submitted along with application for recall of the above order.
05. Accordingly, if the appeal is filed which is in compliance with Rule 12AA and 51(b) of The Income tax Rules, 1962 , the appeal would be admitted.



06. In the result, the appeal filed by the assessee is dismissed as not maintainable.

Order pronounced in the open court on 23.02.2022.

Sd/-
(VIKAS AWASTHY)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 23.02.2022

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai