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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No.5170/Del/2016
Assessment Year: 2012-13

M/s. Rajesh Projects (India) Pvt. Ltd., 501, RG Trade Tower, Plot No. B-7, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi	**Vs.**	ACIT, Central Circle-14, New Delhi
PAN :AABCR6667C		
(Appellant)		**(Respondent)**

With

ITA No.5329/Del/2016
Assessment Year: 2012-13

ACIT, Central Circle-14, New Delhi	**Vs.**	M/s. Rajesh Projects (India) Pvt. Ltd., 501, RG Trade Tower, Plot No. B-7, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi
		PAN :AABCR6667C
(Appellant)		**(Respondent)**

Assessee by	Sh. Rishi Jaiswal, Advocate
Department by	Sh. Toufel Tahir, Sr. DR

Date of hearing	26.05.2022
Date of pronouncement	26.05.2022

ORDER

PER SAKTIJIT DEY, JM:

Captioned cross appeals arise out of order dated 18th July, 2016 of learned Commissioner of Income Tax (Appeals)-26, New Delhi, for the assessment year 2012-13.

2. At the time of hearing of appeal, learned counsel appearing for the assessee submitted that the Hon'ble National Company Law Tribunal (NCLT), New Delhi, Principal Bench has delivered judgment on 19.09.2019 under section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) granting moratorium in terms with section 14 of the said Code. He submitted, in view of such decision of NCLT, the present proceeding cannot continue.

3. Learned Departmental Representative, after going through the judgment of NCLT, agreed with the submission of the assessee.

4. We have considered rival submissions and perused the materials on record. It is observed, certain financial creditors have filed application under section 7 of the IBC seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the assessee. Allowing the application of the financial creditors, Hon'ble NCLT has delivered judgment on 19.09.2019 in C.P. No.

IB-710(PB)/2019 and has initiated CIRP by appointing an interim Insolvency Resolution Professional. In the interregnum, the Hon'ble NCLT has declared moratorium in terms with section 14 of the IBC. In this regard, the following observations of the Hon'ble NCLT is relevant:

> *"20. We also declare moratorium in terms of Section 14 of the Code. A necessary consequence of the moratorium flows from the provisions of Section 14 (1) (a), (b), (e) & (d) and thus the following prohibitions are imposed which must be followed by all and sundry:*
>
> > *"(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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
> >
> > *(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."*

5. Thus, in view of moratorium declared by NCLT, all proceedings in any court of law, Tribunal etc. cannot continue. That being the position in law, no useful purpose is going to be served in continuing the present proceedings. Therefore, these cross appeals need to be consigned to the records.

6. In view of the aforesaid, we dismiss these appeals. However, opportunity is granted both to the assessee as well as the Revenue to seek revival of the respective appeals, in case, order of NCLT is either reversed or modified by any higher judicial forum or if it is necessary to do so in the interest of the parties.

7. In the result, both the appeals are dismissed for statistical purposes.

Order pronounced in the open court on 26th May, 2022

Sd/-	***Sd/-***
(ANADEE NATH MISSHRA)	**(SAKTIJIT DEY)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 26th May, 2022.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi