

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H" MUMBAI**

**BEFORE SHRI ABY T. VARKEY (JUDICIAL MEMBER) AND  
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 1268/MUM/2018  
Assessment Year: 2008-09**

**&**

**ITA No. 1267/MUM/2018  
Assessment Year: 2009-10**

DCIT, CC-5(3) (Erstwhile DCIT  
CC-36),  
R. No. 1906, 19<sup>th</sup> floor,  
Air India Building,  
Nariman Point,  
Mumbai-400021.

**Appellant**

**Vs.** M/s Eskay Knit (India)  
11/12, Krishna House, Raghuvanshi  
Mill Compound, Senapati Bapat  
Marg, Lower Parel (W),  
Mumbai-400013.

**PAN No. AABCS 1363 G  
Respondent**

**ITA No. 1345/MUM/2018  
Assessment Year: 2008-09**

**&**

**ITA No. 1346/MUM/2018  
Assessment Year: 2009-10**

M/s Eskay Knit (India)  
11/12, Krishna House,  
Raghuvanshi Mill Compound,  
Senapati Bapat Marg, Lower  
Parel (W),  
Mumbai-400013.

**PAN No. AABCS 1363 G  
Appellant**

**Vs.** DCIT, CC-5(3),  
R. No. 1906, 19<sup>th</sup> floor,  
Air India Building,  
Nariman Point,  
Mumbai-400021.

**Respondent**



**ITA No. 1517/MUM/2018**  
**Assessment Year: 2009-10**  
**&**  
**ITA No. 1025/MUM/2020**  
**Assessment Year: 2011-12**

M/s Eskay Knit (India)  
11/12, Krishna House,  
Raghuvanshi Mill Compound,  
Senapati Bapat Marg, Lower  
Parel (W),  
Mumbai-400013.  
**PAN No. AABCS 1363 G**  
**Appellant**

**Vs.** DCIT, CC-5(3),  
R. No. 1906, 19<sup>th</sup> floor,  
Air India Building,  
Nariman Point,  
Mumbai-400021.

**Respondent**

**ITA No. 2392/MUM/2017**  
**Assessment Year: 2012-13**

DCIT, CC-5(3),  
R. No. 1906, 19<sup>th</sup> floor,  
Air India Building,  
Nariman Point,  
Mumbai-400021.

**Vs.** M/s Eskay Knit (India)  
11/12, Krishna House, Raghuvanshi  
Mill Compound, Senapati Bapat  
Marg, Lower Parel (W),  
Mumbai-400013.

**PAN No. AABCS 1363 G**  
**Respondent**

**Appellant**

**ITA No. 2462/MUM/2017**  
**Assessment Year: 2012-13**

M/s Eskay Knit (India)  
11/12, Krishna House,  
Raghuvanshi Mill Compound,  
Senapati Bapat Marg, Lower  
Parel (W),  
Mumbai-400013.  
**PAN No. AABCS 1363 G**  
**Appellant**

**Vs.** DCIT, CC-5(2),  
Mumbai.

**Respondent**



Revenue by : Mr. Ashish Deharia, DR  
Assessee by : None  
Date of Hearing : 06/06/2022  
Date of pronouncement : 06/06/2022

### **ORDER**

#### **PER OM PRAKASH KANT, AM**

The Captioned appeals by the assessee as well as by the Revenue have been preferred against separate orders passed by the Ld. First Appellate Authority in respect of different assessment years.

2. Despite notifying none appeared on behalf of the assessee nor any adjournment was sought. Therefore, these appeals were heard *ex-parte* qua the assessee and disposed off after hearing submission of the Ld. Departmental Representative.

3. Before us the Ld. Departmental Representative submitted that against the company insolvency and bankruptcy proceedings under the Insolvency and Bankruptcy Code have been initiated and



resolution professional has been appointed by the National Company Law Tribunal (NCLT) on the petition filed by the Bank of India as financial creditor.

4. On perusal of the record, it is seen that on previous occasion, one authorised signatory has requested for adjournment in view of the pendency of resolution process before the NCLT, but, we find that in said adjournment request, there is no name of the person who signed the adjournment request, nor any authority issued by the resolution professionals is enclosed. Further we find that, as held by the coordinate bench in the case of in the case of **Orbit Corp Ltd. in ITA No. 2979 to 2981/Mum/2020**, the resolution professional was required to amend Form No. 36A for further prosecuting the appeal and in absence of which appeals were held to be non-maintainable. We find that in the instant case also resolution process has been initiated against the assessee and the resolution professional has taken over affairs of the company from the old



management of the company and therefore he was required to amend the Form No. 36A, but despite several opportunities so far the Form No. 36A i.e. the form prescribed for filing appeal before the ITAT, has not been amended by the assessee and Revenue in their respective appeals. So in the circumstances, the appeals under consideration are not maintainable in present format.

4.1 Accordingly, aforesaid appeals are dismissed being non-maintainable at this stage, with liberty to file fresh appeals in proper format duly verified by the person authorized as per provisions of the Income-tax Act, 1961 and ITAT Rules, 1963 or get these appeals restored by moving an appropriate application before the Tribunal by both the assessee as well Revenue, if so advised.

**Order pronounced in the Court.**

Sd/-

**(ABY T. VARKEY)  
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 06/06/2022  
Dragon Legal/Rahul Sharma, Sr. P.S.



**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.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**