

**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. 1249/MUM/2018
Assessment Year: 2014-15**

M/s Jaybharat Textiles & Real Estate Ltd.,
11/12, Raghuvanshi Mill Compound,
Lower Parel,
Mumbai-400013.

**PAN No. AAACJ 5959 L
Appellant**

DCIT, Central Circle-5(3),
Air India Building, 19th floor,
Room No. 1906, Nariman
Point, Mumbai-400021.

Vs.

Respondent

**ITA No. 1265/MUM/2018
Assessment Year: 2013-14**

&

**ITA No. 1264/MUM/2018
Assessment Year: 2014-15**

DCIT, Central Circle-5(3),
Air India Building, 19th floor, Room
No. 1906, Nariman Point,
Mumbai-400021.

Appellant

M/s Jaybharat Textiles & Real
Estate Ltd.,
11/12, Raghuvanshi Mill
Compound, Senapati Bapat Marg,
Lower Parel (W),
Mumbai-400013.

Vs.

PAN No. AAACJ 5959 L

Respondent

Assessee by : None
Revenue by : Mr. Ashish Deharia, DR

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 a common order dated 15.12.2017 passed by the Ld. First Appellate Authority in respect of assessment years 2013-14 & 2014-15.

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 Hon'ble 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 authorized 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 have been 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
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