

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No.757/M/2020  
Assessment Year: 2016-17**

Dy. CIT, Central Circle – 5(3), Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. Krishna Knitwear Technology Ltd., 11/12, Raghuvanshi Mills Compound, S.B. Road, Lower Parel, Mumbai – 400 013 <b>PAN: AAACK 4721H</b>
(Appellant)		(Respondent)

**ITA Nos.6820, 6813 & 6821/M/2011  
Assessment Years: 2002-03, 2003-04 & 2004-05**

M/s. K. Lifestyle & Industries Ltd. (Earlier known as M/s. Krishna Lifestyle Technologies Ltd.) / M/s. Krishna Lifestyle Technologies Ltd., 11/12, Krishna House, Raghuvanshi Mill Compound, Senapati Bapat Marg, Lower Parel, Mumbai – 400 013 <b>PAN: AABCS1364B</b>	Vs.	Dy. CIT, Central Circle – 5(3), Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**ITA Nos.7418, 7419 & 7420/M/2011**  
**Assessment Years: 2004-05, 2002-03 & 2003-04**

ACIT, Central Circle – 33, Room No.32(2), Ground Floor, Aayakar Bhavan, M.K. Road, Marine Lines, Mumbai - 400020	Vs.	M/s. Krishna Lifestyle Technologies Ltd., Raghuvanshi Mill Compound, Senapati Bapat Marg, Lower Parel (W), Mumbai – 400 013 <b>PAN: AABCS1364B</b>
(Appellant)		(Respondent)

**ITA No.2465/M/2017**  
**Assessment Year: 2012-13**

M/s. K. Lifestyle & Industries Ltd., 11/12, Raghuvanshi Mill Compound, Lower Parel, Mumbai – 400 013 <b>PAN: AABCS1364B</b>	Vs.	Dy. CIT, Central Circle – 5(2), Mumbai
(Appellant)		(Respondent)

**ITA No.2395/M/2017**  
**Assessment Year: 2012-13**

Dy. CIT, Central Circle – 5(3), Erstwhile DCIT CC-36, Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. K. Lifestyle & Industries Ltd., 11/12, Raghuvanshi Mill Compound, Senapati Bapat Marg, Near Mahalaxmi Station, Mumbai – 400 013 <b>PAN: AABCS1364B</b>
(Appellant)		(Respondent)

**ITA Nos.1261 & 1260/M/2018**  
**Assessment Years: 2011-12 & 2012-13**

Dy. CIT, Central Circle – 5(3), Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. KG Corporation Ltd., 11/12, Krishna House, Raghuvanshi Mill Compound, Senapati Bapat Marg, Lower Parel (W), Mumbai – 400 013 <b>PAN: AACCT3462C</b>
(Appellant)		(Respondent)

**ITA Nos.1262 & 1263/M/2018**  
**Assessment Years: 2013-14 & 2014-15**

Dy. CIT, Central Circle – 5(3), Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021	Vs.	M/s. K. Lifestyle & Industries Ltd., 11/12, Krishna House, Raghuvanshi Mill Compound, Senapati Bapat Marg, Lower Parel (West) Mumbai – 400 013 <b>PAN: AABCS1364B</b>
(Appellant)		(Respondent)

**ITA Nos.1362, 1363, 1364 & 1365/M/2018**  
**Assessment Years: 2008-09, 2009-10, 2013-14 & 2014-15**

M/s. K. Lifestyle & Industries Ltd., 11/12, Raghuvanshi Mill Compound, Senapati Bapat Marg, Lower Parel (W), Mumbai – 400 013 <b>PAN: AABCS1364B</b>	Vs.	Dy. CIT, Central Circle – 5(3), Air India Building, 19 <sup>th</sup> Floor, Room No.1906, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**ITA Nos.1349, 1350, 1351, 1352, 1353, 1354 & 1355/M/2018**  
**Assessment Years: 2007-08, 2008-09, 2009-10, 2010-11, 2011-12,**  
**2012-13 & 2013-14**

**&**

**ITA Nos.1516 & 1515/M/2018**  
**Assessment Years: 2010-11 & 2011-12**

M/s. KG Corporation Ltd., 11/12, Raghuvanshi Mills Compound, Lower Parel, Mumbai – 400 013 <b>PAN: AACCT3462C</b>	Vs.	Dy. CIT, Central Circle – 5(3), Room No.1906, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Jasdeep Singh, D.R.  
Shri Chintamani V. Dingankar, Sr. A.R.

Date of Hearing : 01 . 06 . 2022

Date of Pronouncement : 01 . 06 . 2022

**O R D E R**

**Per Bench:**

Aforesaid cross appeals filed by M/s. K.G. Corporation Ltd. and its other group concerns (hereinafter referred to as the assessee) and Dy. CIT (hereinafter referred to as the Revenue) bearing common question of law and facts, are taken up for disposal by way of composite order for the sake of brevity.

2. Assessee filed the aforesaid cross appeals by challenging the assessment order framed under section 143(3) read with section 147 of the Income Tax Act, 1961 (for short 'the Act') by making additions/disallowances by treating plant & machinery as bogus and has also disallowed depreciation claimed by the assessee.

Assessing Officer (AO) also made disallowance of the interest claimed by the assessee paid on purchases of plant & machinery. At the same time Revenue has challenged the impugned order passed by the Ld. CIT(A) by allowing the utilization of working capital loan for financing stock on debtors and has also challenged the deletion of addition being disallowance of interest on bank loan utilized for non business purpose. It is a matter of record that a composite order dated 15.12.2017 has been passed by the Ld. CIT(A) which is under challenge before the Tribunal.

3. Challenging the impugned assessment orders passed by the AO, assessee approached Commissioner of Income Tax (Appeals) [hereinafter referred to as CIT(A)] by way of filing appeals who has partly allowed the same. Feeling aggrieved assessee as well as Revenue have filed the cross appeals.

4. Despite the issuance of repeated notices none come present on behalf of the assessee company for the last 4 dates, hence the Bench proceeded to decide these appeals on the basis of material available on record with the assistance of the Ld. D.R. for the Revenue.

5. We have heard the Ld. Departmental Representative for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and order passed by Hon'ble National Company Law Tribunal (NCLT) and documents available on record in the light of the facts and circumstances of the case.

6. At the very outset, it is brought to the notice of the Bench that Hon'ble NCLT, Ahmedabad in separate petitions filed in all the aforesaid cases pertaining to K.G. Corporation Ltd. and its other

group concerns has passed the order under section 13 & 14 of Insolvency and Bankruptcy Code (I&B Code) which is available on the file, to the following effect.

***“(i) 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;***

***(ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;***

***(iii) 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 (54 of 2002);***

***(iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.”***

7. In view of the order passed by the Hon’ble NCLT (supra), we are of the considered view that since proceedings under I&B code have already been initiated and moratorium has been declared by prohibiting all the proceedings against the corporate debtors including execution of any judgment, decree or order of any court of law, tribunal, arbitration panel or other authority, present appeal in the present format are not maintainable being not filed by Interim Resolution Professionals (IRP) who can file appeal with approval of committee of creditors. Moreover, none has come present on behalf of IRP to assist the Bench to proceed further in these appeals, hence aforesaid appeals are liable to be dismissed being not maintainable at this stage.

8. Resultantly, aforesaid cross appeals filed by the assessee as well as Revenue are dismissed with liberty to file fresh appeal in the proper format, duly verified by person authorized to file the return of income or to get the present appeal restored by moving an application. However, nothing expressed herein shall effect the aforesaid appeal on merits.

**Order pronounced in the open court on 01.06.2022.**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

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

Mumbai, Dated: 01.06.2022.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.