

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 6065/Del/2019
Assessment Year: 2015-16**

Pellet Energy Systems Pvt. Ltd., C-51, RDC Raj Nagar, Ghaziabad, U.P.-201002 PAN:AABCL8516C (Appellant)	Versus	ACIT, Circle-19(2), New Delhi (Respondent)
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Appellant by : Ms.Reshma Mittal, CA
Respondent by : ShriToufelTahir, Ld. Sr. DR

Date of hearing : 14.06.2022
Date of order : 27.06.2022

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by Ms.Reshma Mittal, Interim Resolution Professional on behalf of the Assessee Company(captioned above) against the order dated 08.05.2019, impugned herein, passed by the Id. Commissioner of Income Tax (Appeals)-38, New Delhi(in short 'Ld. Commissioner')u/s 250(6) of the Income Tax Act, 1961 (in short 'the Act').

2. In the instant case, the Assessment Order dated 28.12.2017 was passed by the Assessing Officer u/s 143(3) of the Act, whereby the Assessing Officer made the disallowance of Rs.2,00,00,000/- u/s 56(2)(viib) of the Act.

3. The Assessee being aggrieved preferred first appeal before the Id. Commissioner who vide impugned order dated 08.05.2019 dismissed the appeal of the Assessee as *ex-parte* on non-prosecution, against which the Assessee is in appeal before us.

4. Heard the parties and perused the material available on record. Ms.Reshma Mittal submitted before us that the National Company Law Tribunal (in short 'NCLT') Principal Bench at New Delhi vide its order dated 20.07.2018 passed in the case titled as Oriental Bank of Commerce Vs. Pellet Energy Systems Pvt. Ltd. &Ors. { (IB)-76(PB)/2018 u/s 7 of the Insolvency and Bankruptcy Code, 2016} has appointed her as Interim Resolution Professional and therefore, in the capacity of Interim Resolution Professional she had preferred the instant appeal against the impugned order dated 08.05.2019 by the Id. Commissioner.

4.1 We observe as it appears from para no. 3 of the impugned order, the Id. Commissioner on three occasions i.e. 16.03.2019, 12.04.2019 and 26.04.2019 sent notices of hearing of the appeal on 09.04.2019, 24.04.2019 and 08.05.2019 respectively but none attended on behalf of the Assessee Company, therefore, in the constrained circumstances, the Id. Commissioner dismissed the appeal of the Assessee and affirmed the order passed by the Assessing Officer.

4.2 Ms.Reshma Mittal though before us submitted that she never received any notice of hearing before the Id. Commissioner, however from the impugned order it does not reflect that the Id. Commissioner was make aware about the passing of order dated 20.07.2018 by the NCLT, whereby the appointment of Ms.Reshma Mittal was made as InterimResolution Professional.

4.3 At this juncture, we are not dwelling into the controversy, whether the notices of hearing have been sent to the correct address of the Assessee or the notices have been received by the Assessee or its Representative or by the Interim Resolution Professional.

4.4 Considering the peculiar facts in totality, as the Id. Commissioner did not pass the order under challenge on merit, hence, we deem it appropriate to remand the instant case to the file of the Id. Commissioner for decision afresh, suffice to say while affording reasonable opportunity of being heard to the Assessee's Representative/Interim Resolution Professional Ms.Reshma Mittal who has given her address as **C-51, RDC, Raj Nagar, Ghaziabad** for sending notices.

4.5 We also deem it appropriate to direct Ms.Reshma Mittal, Interim Resolution Professional to appear before the Id. Commissioner in the appellate proceedings and to apprise qua the result of proceedings under the Insolvency and Bankruptcy Code, 2016 before the NCLT and to place the relevant document(s) whatever may be required by the Id. Commissioner for adjudication of the appeal.

5 In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 27/06/2022.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER