

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &
SHRI S. RIFAUR RAHMAN, AM**

1. आयकरअपीलसं./ I.T.A. No. 4144/Mum/2013
(निर्धारणवर्ष / Assessment Year: 2009-10)

M/s Reid and Taylor (India) Ltd. 501, 5 th floor, Marathon Innova IT Park, Off G. K. Marg, Lower Parel (W), Mumbai-400 013	<u>बनाम/</u> Vs.	ACIT Range-4(3), Room No. 649, 6 th floor, Aayakar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACCR2067H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

2. आयकरअपीलसं./ I.T.A. No. 4303/Mum/2013
(निर्धारणवर्ष / Assessment Year: 2009-10)
&
3. आयकरअपीलसं./ I.T.A. No. 4559/Mum/2016
(निर्धारणवर्ष / Assessment Year: 2010-11)

ACIT Range-4(3), Room No. 649, 6 th floor, Aayakar Bhavan, Mumbai-400 020	<u>बनाम/</u> Vs.	M/s Reid and Taylor (India) Ltd. 501, 5 th floor, Marathon Innova IT Park, Off G. K. Marg, Lower Parel (W), Mumbai-400 013
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACCR2067H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

4. आयकरअपीलसं./ I.T.A. No. 4143/Mum/2013
 (निर्धारणवर्ष / Assessment Year: 2009-10)

M/s S. Kumars Nationwide Ltd. 501, 5 th floor, Marathon Innova IT Park, Off G. K. Marg, Lower Parel (W), Mumbai-400 013	बनाम/ Vs.	ACIT Range-4(3), Room No. 649, 6 th floor, Aayakar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACSO767K		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

5. आयकरअपीलसं./ I.T.A. No. 4304/Mum/2013
 (निर्धारणवर्ष / Assessment Year: 2009-10)

ACIT Range-4(3), Room No. 649, 6 th floor, Aayakar Bhavan, Mumbai-400 020	बनाम/ Vs.	M/s S. Kumars Nationwide Ltd. 501, 5 th floor, Marathon Innova IT Park, Off G. K. Marg, Lower Parel (W), Mumbai-400 013
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACSO767K		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Jayant Jhaveri, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	04.07.2022
घोषणाकीतारीख / Date of Pronouncement	:	04.07.2022

आदेश / O R D E R

Per Bench:

The aforesaid appeals as well as cross appeals have been filed by the assessee and revenue against the separate impugned order dated 01.03.2013 & 30.03.2016, passed by Ld. CIT (Appeals)-8 & 9, Mumbai respectively for the quantum appeal of assessment passed u/s 143(3) r.w.s. 153A for the AY 2009-10 to 2010-11.

2. From the perusal of relevant documents as well as impugned order, we find that National Company Law Tribunal (NCLT) has passed order dated 24.04.2018 in pursuance of petition filed u/s 7 of IBC for initiating insolvency process against the corporate debtor, i.e., the assessee company and there is moratorium imposed u/s 14 of IBC. The order passed by NCLT u/s 7 of IBC, 2016 dated 24.04.2018, reads as under:-

16. Since, the 'default' in repayments is established as mentioned supra, the Petition deserves to be "Admitted". The IRP is hereby appointed who shall act upon as prescribed under the provisions of section 13 of the Code by making a public announcement immediately hereafter within a period prescribed therein. The IRP so appointed shall also comply with the

provisions of section 15 onwards of the Code and collate all the claims submitted by other Creditors by constituting a 'Committee of Creditors'. We hereby direct the IRP to inform the progress of the Resolution Plan along with a compliance report within 30 days on receipt of this Order. However, a liberty is hereby granted to intimate the progress even at an early date, if need be.

17. Once the Petition is held as fit for "admission", hence as a consequence the "Moratorium" as prescribed under section 14 shall commence henceforth. On enforcement of Moratorium certain prohibitions are applicable, such as institution of any Suit before a Court of Law, transferring of any Asset of the Debtor, encumbering any rights over the assets of the Debtor. However, it is also clarified that the supply of essential goods or services to the Corporate Debtor shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan as prescribed, under section 31 of The Code.

3. In view of the above, no proceedings can be initiated against the corporate debtor, that is, assessee company including the present proceedings before this tribunal, or the income tax proceedings and recovery of demand or giving effect of any order. It is well settled now that, IBC has overriding affect on all the acts

including Income Tax Act which has been specifically provided u/s 178(6) of the I.T. Act as amended w.e.f. 01.11.2016.

4. Accordingly, the appeal filed by the assessee in the present circumstances, cannot be proceeded with, as revenue has also not sought any permission by the committee of creditors. Till the completion of moratorium period or upon the revival of corporate debtor as per the resolution plan approved by the adjudicating authority, the appeals filed by the assessee are treated as dismissed *in limini*. However, liberty is given to the parties to revive /restitute all the aforesaid appeals after the moratorium period expires or as approved by the adjudicating authority.

5. In the result, all the appeals filed by the assessee are **dismissed** in *limini*.

Orders pronounced in the open court on 4th July, 2022.

Sd/-

(S. Rifaur Rahman)
Accountant Member

मुंबई Mumbai;दिनांक Dated : 04/07/2022
Sr.PS. Dhananjay

Sd/-

(Amit Shukla)
Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai