

**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. 1227/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2008-09)
2. आयकरअपीलसं./ I.T.A. No. 1228/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2009-10)
3. आयकरअपीलसं./ I.T.A. No. 1229/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2009-10)

<b>M/s Raj Oil Mills Ltd.</b> 224-230, Bellasis Road, Alexandra Cinema Hall, Nagpada, Mumbai-400 008	<b>बनाम/ Vs.</b>	<b>ACIT Cen. Cir-6(1),</b> R. No. 1905, Air India Building, Nariman Point, Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACCR0266J		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

4. आयकरअपीलसं./ I.T.A. No. 909/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2008-09)

<b>ACIT Cen. Cir-6(1),</b> R. No. 1905, Air India Building, Nariman Point, Mumbai-400 021	<b>बनाम/ Vs.</b>	<b>M/s Raj Oil Mills Ltd.</b> 224-230, Bellasis Road, Alexandra Cinema Hall, Nagpada, Mumbai-400 008
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACCR0266J		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	None
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri Jayant Jhaveri, Ld. DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	04.07.2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	04.07.2022

आदेश / O R D E R

**Per Bench:**

The aforesaid appeals have been filed by the assessee and revenue against separate impugned order of even date 26.11.2018, passed by Ld. CIT (Appeals)-54, Mumbai for the quantum of assessment passed u/s 143(3) r.w.s. 153A for the AY 2008-09 to 2009-10.

2. At the outset, it is noticed that in this case National Company Law Tribunal, Mumbai (NCLT) has passed order dated 19.04.2018 approving the resolution plan of the assessee and the petition filed u/s 10 of IBC, which has been admitted and moratorium has been passed vide order dated 19.04.2018.

3. Thus, once NCLT has passed the order 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, then all the proceedings stands in abeyance.

4. In view of the above moratorium, 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.

5. 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.

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

*Orders pronounced in the open court on 4<sup>th</sup> July, 2022.*

*Sd/-*

(S. Rifaur Rahman)  
Accountant Member

मुंबई Mumbai;दिनांक Dated : 04/07/2022

*Sd/-*

(Amit Shukla)  
Judicial Member

Sr.PS. Dhananjay

**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