

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA No. 5921/MUM/2017
Assessment Year: 2013-14**

The DCIT,
Central Circle-5(4),
Room No. 1927, Air India
Building, Nairman Point,
Mumbai-400021.

Appellant

Vs.

M/s Housing Development &
Infrastructure Ltd.,
901, Dheeraj Arma Anant
Kanekar Marg,
Bandra (E),
Mumbai-400051.
PAN No. AAACH 5443 F
Respondent

**ITA No. 5134/MUM/2019
Assessment Year: 2015-16
&
ITA No. 5135/MUM/2019
Assessment Year: 2016-17**

M/s Housing Development &
Infrastructure Ltd.,
9th floor, HDIL Towers, Anant
Kanekar Marg, Bandra (E),
Mumbai-400051.

PAN No. AAACH 5443 F
Appellant

Vs.

Dy. CIT (TDS)-1(2),
Room No. 803, Smt. K.G. Mittal
Ayurvedic Hospital, Charni Road,
Mumbai-400 002.

Respondent

**ITA No. 7280/MUM/2019
Assessment Year: 2016-17**

The DCIT,
Central Circle-5(4),
Room No. 1927, Air India
Building, Nairman Point,
Mumbai-400021.

Vs.

M/s Housing Development &
Infrastructure Ltd.,
9th floor, HDIL Towers, Anant
Kanekar Marg, Bandra (E),
Mumbai-400051.
PAN No. AAACH 5443 F



Appellant

Respondent

Assessee by	:	None
Revenue by	:	Mr. Vinay Sinha, CIT-DR/ Mr. Asif Karmali, DR
Date of Hearing	:	20/06/2022
Date of pronouncement	:	27/07/2022

ORDER

PER BENCH

The Captioned appeals by the Revenue as well as by the assessee have been preferred against separate orders passed by the Ld. First Appellate Authority in respect of different assessment years.

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 National Company Law Tribunal (NCLT) on the petition filed by the financial creditor.

4. We find that, the coordinate bench in the case of in the case of **Orbit Corp Ltd. in ITA No. 2979 to 2981/Mum/2020**, has held that the resolution professional was required to amend Form No. 36A for further prosecuting the appeal and in absence of which appeals were 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 Revenue as well assessee, if so advised.

Order pronounced in the Court on 27/07/2022.

Sd/-

(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;

Dated: 27/07/2022

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