

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

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI KULDIP SINGH, JM

**ITA Nos. 2290 & 2291/Mum/2016**

(Assessment Years 2009-10 & 2010-11)

DCIT  
Circle 14(1)(2)  
Room no.470, 4<sup>th</sup> Floor,  
Aayakar Bhavan,  
M.K. Road,  
Mumbai-400 020

Vs.

C. Mahendra Exports Ltd.  
1204, 12<sup>th</sup> Floor,  
Panchratna Building,  
Queens Road,  
Opera House,  
Mumbai-400 004

**(Appellant)**

**(Respondent)**

**PAN No. AACCC 9633 L**

**ITA No. 5839/Mum/2013**

(Assessment Year 2008-09)

**ITA Nos. 2361 & 2362/Mum/2016**

(Assessment Years 2009-10 & 2010-11)

C. Mahendra Exports Ltd.  
1204, 12<sup>th</sup> Floor,  
Panchratna Building,  
Queens Road,  
Opera House,  
Mumbai-400 004

Vs.

DCIT  
Circle 14(1)(2)  
Room no.470, 4<sup>th</sup> Floor,  
Aayakar Bhavan,  
M.K. Road,  
Mumbai-400 020

**(Appellant)**

**(Respondent)**

**Assessee by** : Shri Bharat Kumar, AR  
**Revenue by** : Shri Samruddhi D Hande, DR

**Date of hearing:** 27.07.2022  
**Date of pronouncement :** 27.07.2022

**ORDER**

**PER BENCH:**

01. ITA no.5839/Mum/2013 is filed by the assessee for A.Y. 2008-09. ITA no.2290 & 2361/Mum/2016 are cross



appeals filed for A.Y. 2009-10 and ITA no. 2291 & 2262/Mum/2016 are also cross appeals for A.Y. 2010-11.

02. All these appeals are fixed for hearing on 27<sup>th</sup> July, 2022. At the time of hearing, the learned Authorised Representative submitted a request for adjournment of hearing and also submitted the order of the Hon'ble High Court in interim application no. 19403 of 2021 in company petition no. 304 of 2016 dated 17<sup>th</sup> November, 2021.
03. On careful examination of the order of the Hon'ble High Court, wherein it was held that the impugned petition shall be considered as application for initiation of the corporate insolvency resolution process under IBC 2016 by National Company Law Tribunal (NCLT). The Hon'ble High Court further directed that the Directors and the Company shall not alienate the properties of the company. Therefore, it is apparent that earlier order dated 13<sup>th</sup> July, 2018, where winding up was ordered in case of the company is recalled and now, the matter rests with the NCLT.
04. As the assessee is already a corporate debtor, no suit can be proceeded against it and further, the erstwhile Directors of the company are also functus officio, who signed present appeals.
05. In view of above, the appeals of the assessee as well as the Revenue are dismissed with a liberty to file fresh appeals as soon as the corporate insolvency resolution process under IBC 2016 is over.



06. Accordingly, all these appeals are dismissed.

Order pronounced in the open court on 27.07.2022.

Sd/-  
(KULDIP SINGH)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 27.07.2022

*Sudip Sarkar, Sr.PS*

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.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai