

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI LALIET KUMAR, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 116/Hyd/2020  
(निर्धारण वर्ष / Assessment Year: 2011-12)

M/s. Neueon Towers Limited,  
Hyderabad  
[PAN No. AAKCS7820F]

Dy.CIT, Circle-16(1),  
Vs. Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri P.Murali Mohana Rao, AR  
राजस्व द्वारा/Revenue by: Shri Rajendra Kumar, CIT-DR

सुनवाई की तारीख/Date of hearing: 01/08/2022  
घोषणा की तारीख/Pronouncement on: 02/08/2022

आदेश / ORDER

**PER RAMA KANTA PANDA, AM :**

Aggrieved by the order dated 03/10/2019 passed by the learned Commissioner of Income Tax (Appeals)-4, Hyderabad ("Ld. CIT(A)"), in the case of M/s. Neueon Towers Limited, ("the assessee") for the assessment years 2011-12, assessee preferred this appeal.

2. During the course of hearing, it was brought to our notice that assessee preferred this appeal with a delay of 19 days. In this connection, assessee filed an affidavit along with a condonation application explaining the reason(s) for delay in filing the appeal. After considering the contents of the condonation application filed along with the affidavit and after hearing the Ld.DR, we condone the delay and proceed to hear the matter on merits.

3. At the outset it is represented by both the sides that the Corporate Insolvency Resolution Proceedings (CIRP) are pending against the assessee and as of now, Hon'ble National Company Law Appellate Tribunal (NCLAT) is seized with the jurisdiction.

4. We have considered the issue in the light of the provisions of Insolvency and Bankruptcy Code, 2016 ("the Code") and the decision of the Hon'ble Apex Court in the case of Ghanashyam Mishra And Sons vs Edelweiss Asset Reconstruction (2021) 126 taxmann.com 132 (SC). Under section 13 of the Code, the adjudicating authority after admission of the application under section 7 or 9 or 10 of the Code shall declare a moratorium which shall include the prohibition of the institution of suits or continuation of pending suits or proceedings against the corporate debtor in any court of law or tribunal. In Ghanashyam Mishra And Sons (supra), it was held that, **(i)** That once a resolution plan is duly approved by the Adjudicating Authority under sub section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution

plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan; **(ii)** 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect; and **(iii)** Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.

5. A reading of the provisions under section 13 and 14 of the Code along with the decision in Ghanashyam Mishra And Sons (supra), clearly shows that once the proceedings have commenced by institution of application under section 7 or 9 or 10 of the Code, the continuance of the pending proceedings is prohibited and when once they reach the logical conclusion with due approval of the resolution plan by the Adjudicating Authority under sub section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. At any rate, for the time being, this appeal cannot be proceeded with during the continuance of the proceedings under the Code. However, depending upon the result of such proceedings before the adjudicating authority in respect of the corporate debtor, appropriate steps if any, may be taken by the appellant/respondent. We, therefore,

granting leave to the appellant/respondent in this appeal to seek the restoration of the appeal, if necessitated by the orders in the Corporate Insolvency Resolution Proceedings, dismiss the appeal in limine. For the above proposition, we derive support from the decision of the Mumbai Bench of the Tribunal in the case of Mahavir Roads & Infrastructure Pvt. Ltd., Vs. DCIT in ITA Nos. 646 to 651/Mum/2019 (AYs.2008-09 to 2013-14), dt.08/06/2022.

6. In the result, the appeal filed by the assessee is dismissed in limine.

Order pronounced in the open court on this the 2<sup>nd</sup> day of August, 2022

Sd/-  
**(LALIET KUMAR )**  
**JUDICIAL MEMBER**

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 02/08/2022

TNMM

Copy forwarded to:

1. M/s. Neueon Towers Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad.
2. Dy.CIT, Circle-16(1), Hyderabad.
3. CIT(A)-4, Hyderabad.
4. Pr.CIT-4, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD