

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.4027/Del/2019  
Assessment Year: 2015-16

<b>ACIT Circle – 17 (1) New Delhi</b>	<b>Vs</b>	<b>Monnet Ispat &amp; Energy Ltd., 11, Masjid, Greater Kailash, Part-II, New Delhi PAN No.AAACM0501D</b>
<b>(APPELLAN</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	Sh. Vivek Sharma, CIT DR
<b>Respondent</b>	Sh. V. K. Jain, CA

Date of hearing:	04/08/2022
Date of Pronouncement:	04/08/2022

**ORDER**

**PER N.K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-6, Delhi dated 18.02.2019 pertaining to A.Y.2015-16.

2. The grievance of the revenue read as under :-

1. Whether on the facts and in circumstances of the case, Ld. CIT(A) is justified in deleting the addition of Rs. 2,51,57,215/- made on account of disallowance of bogus claim of depreciation.
2. Whether on the facts and in circumstances of the case, Ld. CIT(A) is justified in deleting the addition of Rs. 59,47,00,326/- made by disallowing the expenses u/s 14A of the Income Tax Act.
3. That the appellant craves leave to add, amend, alter or forgo any ground/(s) of appeal raised above at the time of the hearing.

3. At the very outset the Counsel for the assessee drew our attention to the decision of this Tribunal in assessee's own case for A.Y.2013-14 and A.Y.2005-06 to 2007-08. It is the say of the Counsel that as per section 5 (21) of the IBC the dues to the Central Government also fall within the definition of operational debts and in terms of resolution plan as approved by the NCLT of the claims or demands or liabilities or obligations owned or payable to or assessed or assessable by the Central Government/ State Government in relation to any period or prior to the acquisition will be written off in full and will be deemed to be permanently extinguished. The counsel stated that pursuant to the order of the NCLT this Tribunal in earlier assessment years have dismissed the appeal of the revenue.

4. Per contra the DR could not bring any distinguishing feature for the present appeal.

5. We have carefully considered the orders of the authorities below and have also considered the decision of this Tribunal in ITA No.173/Del/2018 for A.Y.2013-14 and ITA No.6961 to 6963/Del/2017 for A.Y.2005-06 to 2007-08. The relevant findings of the coordinate Bench read as under :-

5. We have gone through the record in the light of submissions made on either side. Dues to the Income-tax Department are reflected in list – B appended to the order dated 24.07.2018 passed by the NCLT. By such order, NCLT observed that there is a huge difference in the total amount of admitted secured financial creditors which is to the tune of Rs.1,14,72,09,50,325/- and the liquidation value of the company to the tune of Rs.23,56,35,25,186/- and therefore, by application of the waterfall mechanism mentioned in section 53 of the Code, the liquidation value due to unsecured financial creditors, operational creditors and other creditors of the assessee becomes nil. It is clear that in terms of the resolution plan as approved by the NCLT, all claims or demands or liabilities or obligations owed or payable to or assessed by or assessable by the Central Government/State Government in relation to any period prior to the acquisition, will be written off in full and will be deemed to be permanently extinguished. This position of law is clear in view of the decision of Hon'ble Supreme Court in the case of Ghanashyam Mishra and Sons vs. Edleweiss Assets Reconstruction Company Ltd. (Civil appeal No.8129/2019 – Order dated 13/04/2021).

6. In these circumstances, we are of the considered opinion that the dues to the Income-tax Department for the assessment year 2013-14, which are reflected in the list-B appended to NCLT order stood fully extinguished and no useful purpose would be served by adjudicating this

matter. With this view of the matter, we dismiss the appeal of the Revenue.

7. In the result, the appeal of the Revenue is dismissed.

6. In the light of the above this appeal by the revenue is dismissed.

7. Decision announced in the open court on 04.08.2022.

Sd/-  
**(YOGESH KUMAR US)**  
**JUDICIAL MEMBER**

\*NEHA, Sr. Private Secretary\*

Date:- .08.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI