

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

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA Nos.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
288/Hyd/2021	2010-11	M/s.KRR Infra Projects Private Limited, Hyderabad [PAN: AADCK8254A]	Deputy Commissioner of Income Tax, Central Circle-2(1), Hyderabad
289/Hyd/2021	2011-12		
290/Hyd/2021	2012-13		
291/Hyd/2021	2017-18		

निर्धारिती द्वारा/Assessee by: Shri P. Murali Mohan Rao, AR  
राजस्व द्वारा/Revenue by: Shri Solge Jost Kottaram, CIT-DR

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

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Aggrieved by the orders passed by the learned Commissioner of Income Tax (Appeals)-12, Hyderabad ("Ld. CIT(A)"), in the case of M/s.KRR Infra Projects Private Ltd., ("the assessee") for the assessment years 2010-

11, 2011-12, 2012-13 & 2017-18, the assessee preferred these appeals. For the sake of convenience, we dispose-of these appeals by this common order.

2. It could be seen from the record that the appeals are filed with a delay of 51 or 52 days as the case may be. Though not the learned DR concede the condonation of delay, the fact remains that the Hon'ble Supreme Court in the Suo Motu proceedings in the case of Miscellaneous Application No. 665/2021 in SMW(C) No.3 of 2020 has held that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15 March, 2020 till 02 October, 2021 shall be excluded. We, therefore, proceed to hear and decide the appeal 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, National Company Law Appellate Tribunal (NCLAT) is seized with the jurisdiction. On a perusal of the order dated 06/08/2021 in CP (IB) No. 430/7/HDB/2020 we noticed that the NCLT admitted the application under section 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code") and declared moratorium in terms of section 14 of the Code prohibiting the institution and continuance of proceedings against the assessee with all other attendant consequences.

4. We have considered the issue in the light of the provisions of 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, these appeals 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 appellants/respondents in all these appeals to seek the restoration of the appeals, if necessitated by the orders in the Corporate Insolvency Resolution Proceedings, dismiss the appeals in limine. We derive support for the above proposition 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, all these appeals are dismissed in limine.

Order pronounced in the open court on this the 8<sup>th</sup> day of August, 2022

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**  
Hyderabad, Dated: 08/08/2022

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

TNMM

Copy forwarded to:

1. M/s.KRR Infra Projects Private Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad.
2. Deputy Commissioner of Income Tax, Central Circle-2(1), Hyderabad.
3. CIT(A)-12, Hyderabad.
4. Pr.CIT(Central)-Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD