

आयकर अपीलिय 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

ITA No.03/Hyd/2019		
Assessment Year: 2011-12		
Lanco Infratech Limited, Hyderabad. PAN – AAACL3447H.	Vs.	DCIT, Circle – 16(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Shri K.P.R.R. Murthy.	
Date of hearing:	08.08.2022	
Date of pronouncement:	10.08.2022	

आदेश / ORDER

PER RAMA KANTA PANDA, AM :

Aggrieved by the order dated 28.02.2018 passed by the learned Principal Commissioner of Income Tax, Hyderabad ("Ld. PCIT") under section 263 of the Income Tax Act, in the case of M/s. Lanco Infratech Limited, ("the assessee") for the assessment year 2011-12, assessee preferred this appeal.

2. The appeal filed by the assessee is barred by limitation by 211 days. It has moved a condonation explaining reasons thereof. We have heard both the parties on this preliminary issue. Having regard to the

reasons given in the petition, we condone the delay and admit the appeal for hearing.

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. 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, the appeal of the assessee is dismissed in limine.

Order pronounced in the open court on this the 10th day of August, 2022

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 10/08/2022

TYNM/SR.PS

Copy forwarded to :

S.No	Addresses
1.	Lanco Infratech Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad – 500082.
2	DCIT, Circle – 16(1), Hyderabad
3	PCIT - 4 Hyderabad.
4	DR, ITAT, Hyderabad Benches
5	Guard File.

By Order