

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

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.177/Del/2019
Assessment Year: 2007-08

With

ITA No.178/Del/2019
Assessment Year: 2008-09

M/s. Ballarpur Industries Ltd., First India Place, Tower C, Mehrauli, Gurgaon road, Gurgaon	Vs.	Income Tax Officer, Ward-1(1)(2), International Taxation, New Delhi
PAN :AAACB5343E		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	22.08.2022
Date of pronouncement	22.08.2022

ORDER

PER SAKTIJIT DEY, JM:

Captioned appeals arise out of two separate orders of learned Commissioner of Income Tax (Appeals)-42, New Delhi, both dated 01.10.2018, for the assessment years 2007-08 and 2008-09 respectively.

2. At the time of call, none appeared on behalf of the assessee. However, the assessee has furnished judgment dated 17.01.2020 of National Company Law Tribunal (NCLT), Mumbai Bench, Mumbai, whereby the NCLT under section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) granted moratorium in terms with section 14 of the said Code.

3. We have heard learned Departmental Representative and perused the materials on record. It is observed, certain financial creditors have filed application under section 7 of the IBC seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the assessee. Allowing the application of the financial creditors, the NCLT has delivered a judgment on 17.01.2020 in C.P.(IB)-2915/I&B/MB/2019 and has initiated CIRP by appointing an interim Insolvency Resolution Professional. In the interregnum, the Hon'ble NCLT has declared moratorium in terms with section 14 of the IBC. In this regard, the following observations of the Hon'ble NCLT is relevant:

19. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed. In the light of above facts and circumstances, the existence of debt and default is reasonably established by the Financial Creditor as a major constituent for admission of a petition under section 7 of the I&B Code. Therefore, the Application under sub-section (2) of Section 7 is taken as complete,

accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

- (I)
 - (a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);
 - (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (II) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (IV) That the order of moratorium shall have effect from 17.01.2020 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33, as the case may be.
- (V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (VI) That this Bench hereby appoints, Mr. Divyesh Desai, having office at B2 402B Marathon Innova, Off Ganpatrao Kadam Marg, Lower Parel (W), Mumbai 400013 and having Registration No. IBBI/IPA-001/IP-P00169/2017-18/10338 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

4. Thus, in view of moratorium declared by NCLT, all proceedings in any court of law, Tribunal etc. cannot continue.

That being the position in law, no useful purpose is going to be

served in continuing the present proceedings. Therefore, these appeals need to be consigned to the records.

5. In view of the aforesaid, we dismiss these appeals. However, opportunity is granted to the parties to seek revival of the appeals, in case, order of NCLT is either reversed or modified by any higher judicial forum or if it is necessary to do so in the interest of the parties.

6. In the result, both the appeals are dismissed for statistical purposes.

Order pronounced in the open court on 22nd August, 2022

**Sd/-
(G.S. PANNU)
PRESIDENT**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 22nd August, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi