

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्यके समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1371/Kol/2019
आयकर अपील संख्या-1371/कोल/2019
Assessment Year : 2014-15
निर्धारण वर्ष: 2014-15

DCIT, Circle-11(1), Kolkata	Vs.	M/s Atlantic Projects Ltd. (PAN: AACCA 7233 J)
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	29.08.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	01.09.2022
For the Appellant/ निर्धारिती की ओर से	Shri Akkal Dudhwewala, FCA
For the Respondent/ राजस्व की ओर से	Smt. Ranu Biswas, Addl. CITDR

ORDER / आदेश

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the revenue against the order of the Ld. Commissioner of Income Tax(Appeals)-22, Kolkata (hereinafter referred to as the Ld. CIT(A)"] dated 27.02.2019 for the AY 2014-15. The revenue has assailed the order of Ld. CIT(A) on various grounds.

2. At the outset, the Ld. Counsel of the assessee brought to the notice of the Bench that an order passed by the National Company Law Tribunal, Kolkata Bench

dated 25.11.2021 under the provisions of Insolvency & Bankruptcy Code and submitted that by virtue of the said order of National Company Law Tribunal, all taxes, duties, penalties, interest and cess etc. under any provisions of Act and also all the proceedings including the appellate proceedings pending on the date of order of the National Company Law Tribunal including the present appeal by the revenue for AY 2014-15 are automatically extinguished and ceased to exist. The Id AR therefore prayed that in view of the said order the present appeal of the revenue being relating to the period prior to the date of the above said order may kindly be dismissed. To defend his arguments, the Id counsel relied on the decisions of Hon'ble Kolkata High Court in IA No. GA/1/2022; GA/2/2022 in the case of PCIT vs. M/s Hindusthan National Glass & Industries dated 22.07.2022 and also by the decision of Co-ordinate Bench of Kolkata in the case of Palogix Infrastructure Pvt. Ltd. vs. ACIT in ITA No. 2404/Kol/2016 for AY 2010-11 dated 27.10.2020.

3. The Ld. D.R. fairly agreed to the contentions of the assessee that in the present assessee's case the National Company Law Tribunal has passed the order under the provisions of Insolvency & Bankruptcy Code but insisted on restoring the appeal to the file of the Id AO so that the facts could be verified and decided accordingly.

4. After hearing the rival contentions and perusing the material on record, we note that the National Company Law Tribunal has passed an order under the Insolvency & Bankruptcy Code dated 25.11.2021. In terms of the provisions of Insolvency & Bankruptcy Code, all the liabilities under any provisions of the Act including income tax, interest, cess, penalties etc., and also all proceedings prior to the date of passing the order by National Company Law Tribunal stand extinguished. We have perused the decision of the Hon'ble Calcutta High Court in IA No. GA/1/2022; GA/2/2022 in the case of PCIT vs. M/s Hindusthan National Glass & Industries dated 22.07.2022 and also by the decision of Co-ordinate Bench of Kolkata in the case of Palogix Infrastructure Pvt. Ltd. vs. ACIT in ITA No. 2404/Kol/2016 for AY 2010-11 dated 27.10.2020 and find that similar ratio has been laid in both the above decisions.

Accordingly, respectfully following the ratio as laid in the above decisions ,the appeal of the revenue is dismissed.

5. In the result, all the appeal of the revenue is dismissed.

Order is pronounced in the open court on 1st September, 2022

Sd/-

(Sonjoy Sarma /संजय शर्मा)

Judicial Member/न्यायिक सदस्य

Sd/-

(Rajesh Kumar/राजेश कुमार)

Accountant Member/लेखा सदस्य

Dated: 1st September, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Circle-11(1), Kolkata
2. Respondent – M/s Atlantic Projects Ltd., 1st Floor, P-22, CIT Road, Scheme-55, Kolkata-700014
3. Ld. CIT(A)- 22, Kolkata (Sent Through E-mail)
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata