

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &  
SHRI PRASHANT MAHARISHI, AM**

1. आयकरअपीलसं./ I.T.A. No. 1837/Mum/2021  
(निर्धारणवर्ष / Assessment Year: 2013-14)

<b>Bombay Rayon Fashions Limited</b> DLH Mangal Murti Building, 3 <sup>rd</sup> Floor, Linking Road, Santacruz (West), Mumbai-400 054	<u>बनाम/</u> Vs.	<b>DCIT Cen. Cir-6(3),</b> 19 <sup>th</sup> floor, Air India Building, Nariman Point, Mumbai-400 021
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAACM3447J		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

2. आयकरअपीलसं./ I.T.A. No. 2389/Mum/2021  
(निर्धारणवर्ष / Assessment Year: 2013-14)

<b>DCIT Cen. Cir-6(3),</b> 19 <sup>th</sup> floor, Air India Building, Nariman Point, Mumbai-400 021	<u>बनाम/</u> Vs.	<b>Bombay Rayon Fashions Limited</b> DLH Mangal Murti Building, 3 <sup>rd</sup> Floor, Linking Road, Santacruz (West), Mumbai-400 054
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAACM3447J		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )
अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Pravesh Advani, Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Dr. Mahesh Akhade, Ld. DR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	03.08.2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	23.08.2022

आदेश / O R D E R

**Per Amit Shukla, Judicial Member:**

The aforesaid appeal has been filed by the assessee and cross appeal filed by the revenue against impugned order dated 28.09.2021, passed by Ld. CIT (Appeals)-54, Mumbai for the quantum of assessment passed u/s 143(3) for the AY 2013-14.

2. At the outset, it is noticed that in this case National Company Law Tribunal, Mumbai (NCLT) has passed order approving the resolution plan of the assessee in the petition filed under IBC, which has been admitted and moratorium has been passed u/s 14 of the IBC.

3. Thus, once NCLT has passed the order in pursuance of petition filed u/s 7 of IBC for initiating insolvency process against the corporate debtor, i.e., the assessee company and there is moratorium imposed u/s 14 of IBC, then all the proceedings stands in abeyance.

4. In view of the moratorium, no proceedings can be initiated against the corporate debtor, that is, assessee company including the present proceedings before this tribunal, or the income tax

proceedings and recovery of demand or giving effect of any order. It is well settled now that, IBC has overriding affect on all the acts including Income Tax Act which has been specifically provided u/s 178(6) of the I.T. Act as amended w.e.f. 01.11.2016.

5. Accordingly, the appeal filed by the assessee in the present circumstances, cannot be proceeded with, as revenue has also not sought any permission by the committee of creditors. Till the completion of moratorium period or upon the revival of corporate debtor as per the resolution plan approved by the adjudicating authority, the appeals filed by the assessee are treated as dismissed *in limini*. However, liberty is given to the parties to revive /restitute all the aforesaid appeals after the moratorium period expires or as approved by the adjudicating authority.

6. In the result, both the appeals filed by the assessee and revenue are **dismissed** in *limini*.

*Orders pronounced in the open court on 23<sup>rd</sup> August, 2022.*

*Sd/-*

(Prashant Maharishi)  
Accountant Member

मुंबई Mumbai;दिनांक Dated : 23/08/2022  
Sr.PS. Dhananjay

*Sd/-*

(Amit Shukla)  
Judicial Member

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**