

IN THE INCOME TAX APPELLATE TRIBUNAL “J” BENCH, MUMBAI

BEFORE SHRI B. R. BASKARAN, AM AND SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No.5880/Mum/2018

(निर्धारण वर्ष / Assessment Years: 2014-15)

M/s. Videocon Oil Ventures Ltd 171-C, Mittal Court, Nariman Point, Mumbai- 400021.	बनाम/ Vs.	ITO, Range-3(3)(4) Aayakar Bhavan, M. K. Road, Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADCV1810B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	None
Revenue by:	Ms. Vatsalaa Jha (DR)

सुनवाई की तारीख / Date of Hearing: 10/08/2022

घोषणा की तारीख /Date of Pronouncement: 02/09/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee company against the order of the Assessing Officer (hereinafter “AO”) dated 17.09.2018 passed u/s 143(3) read with section 144C(13) of the Income Tax Act, 1961 (hereinafter “the Act”).

2. At the outset, it is noted that despite the appeal being fixed before this Tribunal for hearing several times, the assessee is not represented by their authorized representative even though notices has been sent to them informing about the hearing. So we are inclined to dispose of the appeal filed in the year 2018.

3. The Ld. DR brought to our notice about a correspondence from the assessee from perusal of which it transpires that against the assessee company M/s VOVL Ltd (Formerly known as Videocon Oil Venture Ltd) (“Corporate debtor”) CIRP proceedings [i.e. Corporate Insolvency Resolution Process] as per the Insolvency and Bankruptcy



ITA No.5880/Mum/2018
A.Y. 2014-15
Videocon Oil Ventures Ltd.

Code, 2016 has been initiated against by the secured creditors and the Ld. National Company Law Tribunal (NCLT) has admitted the same by virtue of order dated 08.11.2019 and consequently Mr. Rakesh Rameshwar has been appointed as Interim Resolution Professional (IRP). And thereafter no information has been brought to our notice. Taking note of the aforesaid development that has taken place in assessee's case this Tribunal in similar fact situation has dismissed the appeal of the assessee by observing as under: -

“3.It has been brought to our notice that Corporate Insolvency Resolution Process u/s 10 of the relevant Code has been initiated against the assessee (“Corporate debtor”) and Interim Resolution Professional (IRP) has been appointed by the National Company Law Tribunal (NCLT). It has been brought to our notice that the matter is pending before the NCLT. Even though, the Interim Resolution Professional has been appointed as (IRP) for the “Corporate Debtor” replacing the IRP, no letter of authority has been issued by IRP in favour of the authorized signatory of the assessee for continuing the appeals. And the assessee did not furnish any permission obtained from the Hon’ble NCLT as held by the Hon’ble Madras High Court in Mrs. Jai Rajkumar Vs. Standic Bank Ghana Ltd. (2019) 101 taxman.com 329. Accordingly, in the light of the aforesaid facts, we are of the opinion that there is no point in keeping the appeals pending before this Tribunal. Therefore, taking note of similar actions/orders passed by the Co-ordinate Bench of this Tribunal in the case of DCIT Vs. Global Softech Ltd. ITA. No. 2394/Mum/2017 and others for the AY 2012-13 dated 16.03.2022 wherein the Tribunal has held as under:

-



*ITA No.5880/Mum/2018
A.Y. 2014-15
Videocon Oil Ventures Ltd.*

“6. It is pertinent to note that as per the provisions of section 14 of the Code institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority shall be prohibited during the moratorium period. The period of moratorium shall have the effect from the date of such order till the completion of the corporate insolvency resolution process. In the present case, the appeal filed by the Revenue is an institution of suit against the corporate debtor, which is prohibited under section 14 of the Code. Hon’ble Supreme Court in case of *Alchemist Asset Reconstruction Co. Ltd. v. Hotel Gaudavan (P.) Ltd.* [2017] 88taxmann.com 202 held that even arbitration proceedings cannot be initiated after imposition of the moratorium u/s 14 (1) (a) has come into effect and it is non est in law and could not have been allowed to continue. Further Hon’ble Supreme Court in the case of *Pr. CIT v. Monnet Ispat & Energy Ltd.* [SLP (C) No.6487 of 2018, dated 10-8-2018] has upheld overriding nature and supremacy of the provisions of the Code over any other enactment in case of conflicting provisions, by virtue of a nonobstante clause contained in section 238 of the Code. It is further pertinent to note that under section 178(6) of the Act, as amended w.e.f. 01.11.2016, the Code shall have overriding effect.

7. Further, as per section 31 of the Code, resolution plan as approved by the Adjudicating Authority shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan. Thus, this will prevent State authorities, Regulatory bodies including Direct & Indirect Tax Departments from questioning the resolution plan. Therefore, there is no reason to keep this appeal pending.



*ITA No.5880/Mum/2018
A.Y. 2014-15
Videocon Oil Ventures Ltd.*

8. In view of the above, we dismiss the appeal filed by the Revenue with the liberty to the Assessing Officer to file the appeal afresh after completion of moratorium period upon the revival of the Corporate Debtor as per Resolution Plan as approved by the Adjudicating Authority or upon appointment of the Liquidator, as the case may be.

9. Further, the appeal filed by the assessee also cannot be sustained as the assessee did not furnish any permission obtained from Hon'ble NCLT as held by the Hon'ble Madras High Court in Mrs. Jai Rajkumar v. Standic Bank Ghana Ltd. [2019] 101 taxmann.com 329. Further, no letter of authority issued by the Interim Resolution Professional in favour of the Authorised Signatory of the assessee, in respect of present cross-appeals before us, has been filed. Nor it has been brought on record whether the Interim Resolution Professional has been authorised by the Committee of Creditors.

10. Accordingly, the appeal filed by the assessee is also dismissed with the liberty to file the appeal afresh by the Interim Resolution Professional / Resolution Professional, as may be substituted by the Hon'ble NCLT, on behalf of the Corporate Debtor with prior permission of the Hon'ble NCLT; or after completion of moratorium period upon the revival of the Corporate Debtor as per Resolution Plan as approved by the Adjudicating Authority or upon appointment of the Liquidator, as the case may be.

4. Respectfully following the order of the Co-ordinate Bench of this Tribunal, the aforesaid captioned appeals filed by the assessee stands dismissed with the liberty to file the appeal afresh by the Interim Resolution Professional/Resolution Professional, as may be substituted by the Hon'ble NCLT on behalf of the "Corporate Debtor" with prior permission of the Hon'ble NCLT; or after completion of moratorium period upon the revival of the "Corporate Debtor" as per Resolution



ITA No.5880/Mum/2018
A.Y. 2014-15
Videocon Oil Ventures Ltd.

Plan as approved by the adjudicating authority or upon appointment of the Liquidator, as the case may be in accordance with law.”

4. Respectfully following the Co-ordinate Bench decision (supra), since CIRP Proceedings has been initiated against the assessee and Resolution Professional has been appointed by the Ld. NCLT as seen (supra), we are inclined to dismiss the appeal of the assessee with the liberty to file the appeal afresh by the Interim Resolution Professional/Resolution Professional, as may be substituted by the Hon’ble NCLT on behalf of the “Corporate Debtor” with prior permission of the Hon’ble NCLT; or after completion of moratorium period upon the revival of the “Corporate Debtor” as per Resolution Plan as approved by the adjudicating authority or upon appointment of the Liquidator, as the case may be in accordance with law..

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on this 02/09/2022.

Sd/-

(B. R. BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 02/09/2022.
Vijay Pal Singh, (Sr. PS)



ITA No.5880/Mum/2018
A.Y. 2014-15
Videocon Oil Ventures Ltd.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**