

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "D" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 768/Ahd/2019  
Assessment Year 2013-14**

The DCIT, Circle-4(1)(2), Ahmedabad  (Appellant)	Vs	Sona Alloys Pvt. Ltd. 4 <sup>th</sup> Floor, Medimax House, Opp. Karnavati Hospital, Ellisbridge, Ahmedabad  PAN: AAKCS5706L (Respondent)
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**Appellant by : Shri Alok Kumar, CIT-DR  
Respondent by : None**

Date of hearing : 20-09-2022  
Date of pronouncement : 11-11-2022

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Revenue as against the order dated 25.02.2019 passed by the Commissioner of Income Tax (Appeals)-8, Ahmedabad, as against the assessment order passed under section 143(3) r.w.s. 142(2A) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2013-14.

2. None appeared on behalf of the assessee. However the Resolution Professional Mr. Vikash Gautam Chand Jain has filed a submission dated 23/07/2021 stating that an Operational Creditor has filed a Company Petition No. (I.B.) No. 586/NCLT/AHM/2019 for initiating the Corporate Insolvency Resolution Process (hereinafter referred "CIRP") as against the respondent/assessee Sona Alloys Pvt. Ltd. under the provisions of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred "IBC") before the Hon'ble NCLT vide its order dated 16.06.2020 has admitted the Company Petition and vide order dated 20/10/2020 appointed Mr. Vikash Gautam Chand Jain as Resolution Professional in the place of Mr. Jagdishchandra Baulal Mistri. The Hon'ble NCLT has admitted the Company Petition and declared the Moratorium period under section 13(1)(a) of the IBC prohibiting the following Acts as referred in Section 14 of the IBC held as follows:

Section 14: Moratorium

*(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-*

*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 Securitization and Reconstruction of Financial Assets and [Enforcement of Security Interest Act, 2002](#);*

*d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.*

*(2) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.*

*(3) The provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector Regulator.*

*(4) The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process:*

*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.*

3. As per sub-section (4) of Section 14 of IBC, all the proceedings pending before various forums stands in abeyance.

4. The Ld. CIT-DR appearing on behalf of the Revenue do not controvert to the above proceedings before NCLT.

4.1. The Ld. Counsel Ms. Arti N. Shah from the Bar brought to the attention of the Bench recent decision passed by the Co-ordinate Bench of this Tribunal in ITA No. 2960/Ahd/2017 dated 28.07.2022 in the case of M/s. Sterling Lam Limited wherein it was held as follows:

*2.1. As further submitted by the Ld.counsel for the assessee, a resolution professional has been appointed by NCLT and the process of Corporate Insolvency Resolution Process (CIRP) is still pending. She has submitted that there is a moratorium for 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 Penal or other authority in view of [Section 14\(1\) \(a\)](#) of the Insolvency and Bankruptcy Code, 2016 and, therefore, no proceedings can be continued including the Income-tax proceedings before this Tribunal in the case of the assessee during a moratorium period.*

*3. The Ld.counsel for the assessee has invited our attention to the decision of Bombay Bench of this Tribunal in the case of Mahavir Roads & Infrastructure Pvt. Ltd. vs. DCIT (ITA Nos. 646 to 651/Mum/2019 order*

dated 08/06/2022), wherein the appeal of the assessee in the similar facts and circumstances was dismissed by the Tribunal by observing as under:-

" 4. We find that the present appeals have been filed by the assessee against the order of Ld. CIT (A) whereby demands have been created in respect of the additions sustained /enhanced by the Ld. CIT (A). 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. The relevant portion of the order reads as under:-

.....

5. Thus, in view of the above, 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.

6. 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 limine. 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.

7. In the result, all the appeals filed by the assessee are dismissed in limine."

4. Having regard to all the facts of the case and keeping in view the decision of Co-ordinate Bench of this Tribunal at Mumbai in the case of Mahavir Roads & Infrastructure Pvt.Ltd. vs. DCIT (supra), this appeal filed by the assessee is treated as dismissed in limine. Liberty, however, is given to the parties to revive/restitute this appeal after the moratorium period expires or as approved by the adjudicating authority.

5. In the result, the appeal filed by the assessee is dismissed.

5. Accordingly, the appeal filed by the Revenue in the present circumstances, cannot be proceeded with. Till the completion of moratorium period or upon the revival of corporate debtor as per the Resolution Plan approved by the adjudicating authority. Therefore the appeal filed by the Revenue is treated as dismissed *in limini*. However, liberty is given to the Revenue to revive/restitute after the moratorium period expires or as approved by the adjudicating authority.

6. In the result, the appeal filed by the Revenue is dismissed

Order pronounced in the open court on 11-11-2022

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 11/11/2022**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद