

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA Nos. 802, 803 & 804/Hyd/2019  
(निर्धारण वर्ष / Assessment Years: 2012-13, 2013-14 & 2014-15)

DCIT, Circle-2(1), Vs. M/s. KVK Energy & Infrastructure  
Hyderabad Private Limited,  
Hyderabad  
[PAN No. AACCK7662D]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri M. Chandramouleswara Rao, AR  
राजस्व द्वारा / Revenue by: Shri Jeevan Lal Lavidiya, CIT-DR

सुनवाई की तारीख/Date of hearing: 22/11/2022  
घोषणा की तारीख/Pronouncement on: 22/11/2022

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Challenging the orders passed by the learned Commissioner of Income Tax (Appeals)-2, Hyderabad ("Ld. CIT(A)"), in the case of M/s. KVK Energy & Infrastructure Private Limited ("the assessee") for the assessment years 2012-13, 2013-14 & 2014-15, Revenue preferred these appeals.

2. At the outset it is represented by the learned AR that no adjudication is necessary in this matter, since Corporate Insolvency Resolution Proceedings (CIRP) under the provisions of the Insolvency

and Bankruptcy Code, 2016 (“the Code”) in CP (IB) No. 430/07/HDB/2019 on the file of the National Company Law Tribunal, Hyderabad (NCLT) were concluded by the NCLT by order dated 06/08/2021 under section 31 of the Code by approving the resolution plan submitted by GBR International Pte Ltd. whereunder, in terms of the decision of the Hon’ble Apex Court in the case of Ghanashyam Mishra And Sons vs Edelweiss Asset Reconstruction (2021) 126 taxmann.com 132 (SC), the rights, liabilities and disabilities of the parties stood crystallised, as is evident from paragraphs No. 8(C) read with 23 of the order. Copy of the order dated 06/08/2021 is produced and forms part of record. Learned DR concedes this factual and legal position as submitted by the learned AR.

3. We have considered the issue in the light of the provisions of and the decision of the Hon'ble Apex Court in the case of Ghanashyam Mishra and Sons vs Edelweiss Asset Reconstruction (supra). The copy of the order dated 06/08/2021 establishes that the CIRP were concluded and the Adjudicating Authority approved the same. In Ghanashyam Mishra And Sons (supra), it was held that,

- (i) once a resolution plan is duly approved by the Adjudicating Authority under sub section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;
- (ii) (ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect; and
- (iii) consequently all the dues including the statutory dues owed to the Central Government, any State Government or

any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.

4. A reading of the decision in Ghanashyam Mishra And Sons (supra), clearly shows that when once CIRP reach the logical conclusion with due approval of the resolution plan by the Adjudicating Authority under sub section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders.

5. It, therefore, follows that in view of the CIRP, as approved by the adjudicating authority, these appeals have become infructuous since the rights, liabilities and disabilities of parties do not survive after CIRP. With this view of the matter, we consider the request of the learned AR that these appeals have become infructuous and the same may be dismissed as infructuous.

6. In the result, these appeals are dismissed in limine.

Order pronounced in the open court on this the 22<sup>nd</sup> November, 2022.

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 22/11/2022

TNMM

Copy forwarded to:

1. DCIT, Circle-2(1), Hyderabad.
2. M/s. KVK Energy & Infrastructure Private Limited, # 6-3-1109/A/1,  
3<sup>rd</sup> Floor, Navabharat Chambers, Raj Bhavan Road, Somajiguda,  
Hyderabad.
3. CIT(Appeals)-2, Hyderabad.
4. Pr.CIT-2, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD