

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.26/Ind/2019
Assessment Year: 2014-15

M/s. Sanwaria Consumer Limited (Formerly known as "Sanwaria Agro Oils Limited"), Bhopal	<u>बनाम/</u> Vs.	DCIT-4(1) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
PAN: AACCS 1449 N		
Assessee by	None	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	10.11.2022	
Date of Pronouncement	6.12.2022	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by assessment-order dated 15.11.2018 passed by learned DCIT-4(1), Bhopal [**"Ld. AO"**] u/s 143(3) read with section 92CA and 144C of Income-tax Act, 1961 [**"the Act"**] for Assessment-Year [**"AY"**] 2014-15, the assessee has filed this appeal.

2. None appeared on behalf of assessee but the Ld. DR representing the Revenue was ready to make submissions. Hence, the case was proceeded with.

3. The material available on record reveals that the National Company Law Tribunal, Indore Bench at Ahmedabad [**"NCLT"**] has passed order dated 29.05.2020 u/s 7 of the Insolvency and Bankruptcy Code, 2016 [**"IBC"**] in CP No. (IB)-No. 7/9/NCLT/AHM/2019 in the matter of assessee-company, according to which the Hon'ble NCLT has admitted the petition filed u/s 9 of IBC for initiation of Corporate Insolvency Resolution Process of the assessee-company; appointed the Insolvency Resolution Professional; and also declared a moratorium in terms of section 14 of the IBC.

4. We take note of section 14 of the IBC dealing with Moratorium, which provides as under:

"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 (54 of 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.”

5. Thus, in terms of section 14 of IBC, there is a complete prohibition imposed on the institution or continuation of any pending suit against the assessee-company including the execution of any judgment in any Court of law or Tribunal, etc. Therefore, at present this appeal cannot be continued. This view has been taken by (i) **ITAT, Delhi “A” Bench in ACIT Vs. M/s Amtek Ring Gears Ltd., ITA No. 5028/Del/2014 dated 17.05.2018**, and (ii) **ITAT, Ahmedabad “D” Bench in DCIT Vs. Sona Alloys Pvt. Ltd. ITA No. 768/Ahd/2019 dated 11.11.2022**.

6. For the above reason, we dismiss this appeal. However, in the interest of justice we give liberty to the appellant to file an application for revival/restitution of this appeal, if necessary, as and when the moratorium period is over or as approved by the concerned authorities or in accordance with any law as may permit such action.

7. Resultantly, the present appeal is dismissed.

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 6/12/2022.

Sd/-

sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 06.12.2022

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secreary
Income Tax Appellate Tribunal
Indore Bench, Indore

1.	Date of taking dictation	1.12.22
2.	Date of typing & draft order placed before the Dictating Member	1.12.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	1.12.22
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	