

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “G” DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.4234 /DEL/2013  
Assessment Year 2010-11

M/s. Shri Lal Mahal Ltd., B-16, Bhagwan Dass Nagar, East Punjabi Bagh, New Delhi.	Vs.	DCIT, Circle-8(1), New Delhi.
TAN/PAN: AAEC5326C		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Abhishek Kumar, Sr.DR		
Date of hearing:	15	12	2022
Date of pronouncement:	15	12	2022

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-XI, New Delhi [‘CIT(A)’ in short] dated 22.05.2013 arising from the assessment order dated 31.05.2012 passed under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. When the matter was called for hearing, none appeared for the assessee. Accordingly, the matter was proceeded ex-parte. However, it is noticed that an e-mail dated 7<sup>th</sup> September, 2022 was forwarded on behalf of the assessee which read as under:

*“To  
Shri Mahendra Pratap Singh Visen  
Dy. Commissioner of Income Tax  
Central Circle-06, New Delhi*

*7<sup>th</sup> day of September, 2022*

*Ref: DIN & Notice No. ITBA/AST/F/142(1)/2022-23/1045008214(1), D.No.111*

*Sub: Intimation With Respect To The Current Position of M/s. Shri Lal Mahal Ltd. (Now Known As Nurtionex Manufacturers Ltd.)*

*Dear Sir,*

*This is for your kind information and records that an application under Sec 7 of Insolvency and Bankruptcy Code, 2016 (In Short," IBC Code, 2016) was filed by the State Bank of India against the Nutrionex Manufacturers Ltd./Corporate Debtor and the same has been admitted before Hon'ble National Company Law Tribunal, Delhi vide order dt. 25.02.2021 passed in 'CP (IB) 613/ND/2019, in this connection we would like to submit as follows:*

*1. That as per the said order dt. 25.02.2021, Corporate Insolvency Resolution Process (In Short CIRP) has been initiated. Though, as per the norms of CIRP, which mandates imposition of Sec 14 of Insolvency and Bankruptcy Code, 2016.*

*2. That as per Section 14 (1) (a) of IBC Code, 2016, institution of any suit or continuation of proceeding against the corporate debtor i.e. Nutrionex Manufactures Ltd. are stayed from the date of initiation of CIRP, in this case 25th of February, 2021. However, the contents of Section 14 of the IBC Code, 2016 are reproduced below for your quick and kind perusal:*

*"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 judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(h) transferring, encumbering, alienating or disposing off 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 the possession of the corporate debtor."*

3. *It is humbly submitted that subsequently, the Income Tax Department through the DCIT, Central Circle-06, New Delhi has filed a Claim Petition against the Nutrionex Manufacturers Ltd. before the Interim Resolution Professional on 29.08.2021 in Form-B under Regulation 7 of the Insolvency and Bankruptcy Board of India ( Insolvency Resolution Process for Corporate Persons) Regulation, 2016 claiming Rs.452,55,77,531/- and stated that the said amounts pertain to Assessment Orders for the Assessment Years 2016-17, 2017-18 and 2018-19.*

4. *It is respectfully submitted that the Income Tax Department has raised a Claim before the Resolution Professional against Nutrionex Manufacturers Ltd. for certain alleged dues payable and the same has been admitted.*

*Therefore, in the aforesaid conspectus, It is stated that for any further proceedings/claims against the Company qua Corporate Debtor can be submitted with IRP as per the process provided/ laid down in the public announcement and all the proceedings against the company/corporate debtor shall be stayed as per the norms of Sec 14 of IBC Code, 2016.*

*For any other assistance or information, you may contact to the Resolution Professional of Nutrionex Manufacturers Ltd. Contact details of the Resolution professional are as: Sh. Sanjeev Abuja (Resolution Professional)*

*Add: B-231 Saraswati Vihar, Pitampura New Delhi — 110034.*

*Email Id: [resolution,ensemble@gmail.com](mailto:resolution,ensemble@gmail.com)*

*Phone: 9810600016*

*Yours Sincerely,*

*B S Rawat*

*Authorised Signatory*

*Nutrionex Manufacturers Limited*

*Encl.”*

3. The Ld. Sr.DR also endorsed the averments made in the e-mail of the assessee and submitted that an application for liquidation has been filed before the National Company Law Tribunal, New Delhi Bench by the Financial creditor namely State Bank of India. The application moved by SBI under section 7 of the code seeking initiation of Corporate Insolvency Resolution Process (CIRP) which has been admitted and the Delhi Bench of NCLT by its order dated

06.04.2021 have declared moratorium in terms of section 14 of the Insolvency and Bankruptcy Code, 2016 as per para 34 of its order.

3. The Ld. Sr.DR accordingly submitted that the present appeal in such circumstances cannot be pursued in view of the overriding provisions of insolvency code but however, prayed for liberty to revive the captioned appeal as and when the moratorium period is over or revival of company takes place.

4. In the light of statutory provision and in the light of decision of the Hon'ble Supreme Court in the case of *Pr. CIT Vs. Monnet Ispat and Energy Limited (2019) 107 taxmann.com 481* and also in the light of the overriding provision of the code in terms of Section 238 of the Act, the assessee is estopped to pursue the captioned appeal.

6. For such reasons, the appeal of the assessee is dismissed with a liberty to the assessee to seek remedial measures in accordance with law as and when the moratorium period is over or revival of the assessee company takes place. The Assessee would thus be entitled to revive the appeal on completion of moratorium in accordance with law, where it is considered expedient to do so by Assessee.

7. In the result, the appeal of the assessee stands dismissed.

**Order pronounced in the open Court on 15/12/2022.**

Sd/-

**[KUL BHARAT]  
JUDICIAL MEMBER**

DATED: /12/2022

*Prabhat*

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**