

IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI

**BEFORE SHRI PRAKASH MAHARISHI, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 6303/Mum/2018
(Assessment Year: 2012-13)

Jaybharat Textiles & Real Estate Ltd. 11/12, Krishna House, Raghuvanshi Mill Copound, Senapati Bapat Marg, Lower Parel, Mumbai-400 013	Vs.	DCIT, Central Circle-5(3) Mumbai
PAN/GIR No.		
(Appellant)	:	(Respondent)
Assessee by	:	None
Revenue by	:	Shri Yashwant Kumar Bhaskar
Date of Hearing	:	11.01.2023
Date of Pronouncement	:	24.01.2023

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals)-53, Mumbai passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2012-13.

2. Primarily, the assessee has challenged the penalty order u/s. 271(1)(c) of the Act dated 29.03.2018 passed by the Assessing Officer (A.O. for short) and confirmed by the Id. CIT(A).

3. As there was no representation on behalf of the assessee, we proceed to hear and decide the appeal by hearing the Id. Departmental Representative (DR for short) and on perusal of the material available on record.

4. The brief facts are that the assessee company is engaged in the business of manufacturing circular knitted hosiery, cloth, yarn and T.F.O. yarn. The assessee filed its return of income declaring total loss of Rs.29,61,68,590/- dated 27.09.2012. The assessee's case was selected for scrutiny and the assessment order u/s. 144 of the Act was passed dated 31.03.2015, where the A.O. determined the total loss of the assessee at Rs.20,44,54,272/- by way of making various additions/disallowances. The penalty proceeding u/s. 271(1)(c) of the Act was initiated and the penalty amounting to Rs.3,46,82,710/- was levied.

5. Aggrieved by this, the assessee was in appeal before the Id. CIT(A), challenging the penalty order dated 29.03.2018. The Id. CIT(A) upheld the penalty levied by the A.O.

6. The assessee is in appeal before us, challenging the order of the Id. CIT(A).

7. Having heard the Id. DR for the Revenue and perused the material available on record, it is observed that the assessee company is undergoing insolvency proceedings before the Hon'ble National Company Law Tribunal (NCLT for short) which is said to have appointed Interim Resolution Professional. The Id. DR had nothing to controvert the same.

8. From the above observation, we are of the considered view that as per the provisions of section 14 of Insolvency and Bankruptcy Code, 2016, the assessee company is undergoing insolvency proceedings. We are, therefore, inclined to dismiss this appeal with the liberty given to the assessee to restore the same after completion of the moratorium period.

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

Order pronounced in the open court on 24.01.2023

Sd/-

Sd/-

(Prashant Maharishi)
Accountant Member

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 24.01.2023

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai