

**16IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “C” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.As. No.3073 & 3074/DEL/2018
Assessment Years 2009-10 & 2010-11

Jewel Garments Pvt. Ltd., Plot No.29, DLF Industrial Area, Phase-2, Near NHPC Chowk, Faridabad.	v.	ITO, Ward-2(3), Faridabad.
TAN/PAN: AABCJ9694B		
(Appellant)		(Respondent)

Appellant by:	Shri Vivek Bansal, Adv.		
Respondent by:	Shri Anuj Garg, Sr.DR		
Date of hearing:	18	01	2023
Date of pronouncement:	15	02	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M. :

The captioned appeals have been filed by the Assessee against the orders of the Commissioner of Income Tax (Appeals), Faridabad ('CIT(A)' in short) both dated 27.03.2018 arising from the assessment orders dated 31.12.2016 passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AYs 2009-10 & 2010-11, respectively.

2. When the matter was called for hearing, the Id. Counsel for the assessee pointed out that proceedings under Insolvency and Bankruptcy Code, 2016 (IBC) are going on against the assessee before National Company Law Tribunal Allahabad and moratorium as per the provisions of Section 14 of the IBC has

been granted. A copy of the order of NCLT granting moratorium dated 15.09.2022 pursuant to proceedings initiated under IBC Code 2016 was placed on record. It was further pointed out that as per the order of the NCLT, moratorium under Section 14 of IBC 2016 shall have effect from 09.08.2017 till the completion of CIRP or until approval of resolution plan by adjudicating authority under Section 31(1) of IBC or until order of liquidation of the assessee company under Section 33 of IBC as a case may be. It has been further ordered that pending suits or proceedings against the assessee company including execution of any judgment, decree or order in any Court of law, Tribunal, arbitration panel or other authority, etc. is prohibited. It was thus urged that the appeals of the assessee be kept in abeyance or in the alternative where the Tribunal disposes these appeals, a liberty be granted to assessee to seek revival of these appeals after lifting of moratorium.

4. The Ld. DR for the Revenue did not express any objection to such plea of the assessee.

5. 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 appeals.

6. For such reasons, the appeals of the assessee are 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.

7. In the result, the captioned appeals of the assessee stand dismissed.

Order pronounced in the open Court on 15/02/2023.

Sd/-
[CHANDRA MOHAN GARG]
JUDICIAL MEMBER

DATED: **/02/2023**

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER