

**IN THE INCOME TAX APPELLATE TRIBUNAL "K" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI RAHUL CHAUDHARY, JM

**ITA No. 1467, 1468, 2135, 4720, 4721/MUM/2016**  
(Assessment Year 2010-11, 2011-12, 2012-13)

**ITA No. 7019/MUM/2017**  
(Assessment Year 2013-14)

Jyoti Structures Ltd Valecha Chambers, 6 <sup>th</sup> Floor, New Link Rd, Oshiwara, Andheri(W)-400 053	Vs.	DCIT CC 7(2) R.No. 655, 6 <sup>th</sup> Floor, Aayakar Bhavan, M.K.Road, Mumbai-400 020
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No. AAACJ2499R</b>		

**ITA No. 1239/MUM/2021**  
(Assessment Year 2016-17)

Jyoti Structures Ltd Valecha Chambers, 6 <sup>th</sup> Floor, New Link Rd, Oshiwara, Andheri(W)-400 053	Vs.	National Faceless Assessment Centre Aayakar Bhavan, M.K. Road, Mumbai-400 020
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No. AAACL2499R</b>		

**Assessee by** : Utkarsh Sharma CA/ Ms. Shalini  
Agarwal/Ms. Midhat Khan  
**Revenue by** : Ms. Samruddhi Hande, Sr.AR

**Date of hearing:** 14.02.2023  
**Date of pronouncement :** 16.02.2023

**ORDER**

**PER BENCH**

01. These appeals are filed by Jyoti Structures Limited, Mumbai for A.Y. 2010-11 to A.Y. 2016-17 being bunch of



7 appeals. At the time of hearing the Id. AR appearing on behalf of the assessee submitted that above company has come out of the IBC 2016 proceedings on the basis of resolution plan submitted by Mr. Sharad Sanghi approved by committee of creditors and National Company Law Tribunal order dated 27.03.2019. The new board has taken over. It was also submitted that in the resolution plan there are no dues of the Income Tax Department payable by the assessee. It was further stated that Mr. Vandana Garg, the original IRP has also now not holding any post.

02. The Id. DR submitted that these appeals are filed by the erstwhile Managing Director Mr. K R Thakur who is now functus officio as the Board of Directors existing erstwhile are not capable of contesting these appeals. Therefore, these appeals are not maintainable.
03. We have carefully considered the rival contentions and find that this company has undergone insolvency resolution and one Mr. Sharad Sanghi has submitted plan which was approved by the committee of creditors and the order of NCLT dated 27.03.2019. It is not ascertainable whether dues of Income Tax Department are part of resolution plan or not. The appeal is also filed by the erstwhile Managing Director who is no more authorized to contest the appeal. The present appeal is required to be reinstated, if at all the outstanding due of the Income Tax Department are part of corporate insolvency resolution plan. It is also not ascertainable that whether these



appeals are required to be contested at all. As these appeals are signed by the Managing Directors of erstwhile Board of Directors, who is not authorized to contest this appeal now, therefore, these appeals are not maintainable.

04. Accordingly, we dismissed all these 7 appeals as not maintainable. However, if the new management is of the opinion that dues of Income Tax Department are part of resolution plan and these appeals are required to be contested, liberty is given to reinstate these appeals duly signed by the person authorized to sign the return of income u/s. 140 of the Act. Appeals of the assessee would be reinstated from the date revised form number 36 are filed. The assessee is given liberty to file these appeals within 90 days from the date of these orders. In such circumstances, on application of the assessee, this order would be recalled.

05. Accordingly, all theses 7 appeals are dismissed as not maintainable.

Order pronounced in the open court on 16.02.2023.

Sd/-  
(RAHUL CHAUDHARY)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated:16.02.2023

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.



3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai