

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

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

ITA Nos.7018, 2019/MUM/2012
(Assessment Years 2009-10, 2010-11)

ITA No.863/MUM/2016
(Assessment Years 2011-12)

ITA Nos.2055/MUM/2017
(Assessment Years 2012-13)

M/s Core Projects &
Technologies Limited
P. Murali & Co.
Chartered Accountants,
6-3-655/2/3: 1st Floor
Somajiguda, Hyderabad-500082

Vs.

Asst. CIT
Circle-40,
Mumbai

(Appellant)

(Respondent)

PAN No. AAACA6016F

ITA Nos.1929/MUM/2016
(Assessment Years 2011-12)

DCIT
Central Circle 7(1),
Room No.653,
6th Floor,
Aaykar Bhavan
M.K. Road, M 020

Vs.

M/s Core Education &
Technologies Limited
P. Murali & Co.
Chartered Accountants,
6-3-655/2/3: 1st Floor
Somajiguda, Hyderabad-500082

(Appellant)

(Respondent)

Assessee by : None
Revenue by : Ms Samruddhi Hande , Sr DR

Date of hearing: 21.02.2023
Date of pronouncement : 21.02.2023

ORDER

PER BENCH:

01. These are the five appeals pertaining to one assessee for four assessment years, wherein for A.Y. 2011-12, cross



appeals are filed and for other assessment years, assessee is in appeal.

02. At the time of hearing of the appeal, the learned Departmental Representative pointed out that the assessee company has been in winding up proceeding and Hon'ble Bombay High Court in Company Petition No. 641 of 2014 vide order dated 30th October, 2017, has ordered the winding up of the above company and official Liquidator has been appointed.
03. All these appeals filed by the assessee in ITA No.7018/Mum/2012 for A.Y. 2009-10, ITA No.7019/Mum/2012 for A.Y. 2010-11, ITA No.863/Mum/2016 for A.Y. 2011-12 and ITA No.2055/Mum/2017 for A.Y. 2012-13 has been filed by the assessee but there is no reference or idea about who has signed these appeals. The learned Departmental Representative categorically referred to form no.36B filed for A.Y. 2009-10 which is signed on behalf of the assessee without mentioning the designation and name of the person. Similar is the case in all other appeals filed by the assessee. It was submitted that these appeal should be filed in accordance with the provisions of section 140 of the act. Therefore, according to the learned Departmental Representative in case of liquidation these appeals should have been filed by the liquidator and not anybody else. Therefore unless these appeals are reinstated duly signed by the official liquidator, these appeals cannot be allowed to be continued.



04. It was found that in ITA No.1929/Mum/2016, is filed by the learned Assessing Officer making the assessee respondent. In that appeal also the learned Assessing Officer should have mentioned the liquidator as respondent.
05. Fact shows that as the liquidation process has been ordered by the Hon'ble Bombay High Court on 30th October, 2017, despite this, no efforts have been taken ITAT by the liquidator or by the learned assessing officer to reinstate the revised form number 36B/36 . It was also not shown before us that whether the outstanding dues of taxation are in the statement of liquidator's assets and liabilities or not. At least several occasions nobody is appearing on behalf of the assessee. These matters are before the Tribunal since 2012 and some of the matters are pertaining to 2016 and 2017. On looking at the order of the Hon'ble High Court that the above company has been ordered for liquidation according to Provision of Section 361 of the Companies Act 2013 and other provisions. It was not shown to us that whether the amount of income tax payable is claimed before the liquidator or not. If there is no such claim, the appeals, are futile. In view of this, we dismiss all the four appeals filed by the assessee as those are not preferred/replaced by the liquidator and no efforts have been made by the liquidator to reinstate revised appeals form. Similarly, the learned Assessing Officer has also not made the liquidator as respondent and further could not show whether the tax liability is part of the liquidator's statements of affairs or



not. Accordingly, all the five appeals are dismissed. However, we give a liberty to the Revenue and to the liquidator that in case the liabilities are contested, the proper appeal forms may be filed with a request for recall of this order.

06. Accordingly, all the five appeals are dismissed as per above direction.

Order pronounced in the open court on 21.02.2023.

Sd/-
(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.02.2023

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