

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 377/Srt/2017 (Assessment Year: 2013-14)
ITA No. 12/Srt/2018 (Assessment Year: 2012-13)
ITA No. 45/Srt/2019 (Assessment Year: 2011-12)
(Virtual hearing)

Nakoda Limited, 401, 4 th Floor, Union Trade Centre, Beside Apple Hospital, Udhna Darwaja, Ring Road, Surat-395002. PAN No. AAACN 7282 L	Vs.	A.C.I.T., Circle- 1(1)(2), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Hiren Vepari, CA
Respondent represented by	Shri Ashok B. Koli, CIT-DR and Shri Vinod Kumar, Sr. DR
Date of hearing	27/02/2023
Date of pronouncement	27/02/2023

Order under Section 254(1) of Income Tax Act

PER: BENCH :

1. These three appeals by the assessee are directed against separate orders of learned Commissioner of Income Tax (Appeals)-1, Surat (in short, the Id. CIT(A) dated 16/10/2017, 25/10/2017 and 20/02/2018 for the Assessment years (AY) 2013-14, 2012-13 and 2011-12 respectively.
2. The learned Authorised Representative (Id. AR) of the assessee informed that Insolvency and Bankruptcy proceeding is initiated against the assessee company by secured creditor i.e. Canara Bank has filed a petition under Section 7 of Insolvency and Bankruptcy Code, 2016 (I&B Code) before National Company Law Tribunal, Ahmedabad (NCLT). The learned NCLT has passed order on 12/07/2021 in C.P.(IB) No.

169/NCLT/AHM/2019 under Section 14 of I&B code. The learned NCLT has already appointed Interim Resolution Professional (IRP). And further passed a restrained order in prohibiting, institution of suit or continuation of pending suit or proceeding against corporate debtor (assessee) including execution of any judgment/decreed or order in any court of law, Tribunal or Arbitration Panel or other authority.

3. The Id. AR for the assessee has already filed order of Id NCLT dated 12.07.2021 showing the fact that the assessee has been impleaded as Corporate Debtor before the Hon'ble National Company Law Tribunal (NCLT) Ahmedabad by the Financial Creditor- Canara Bank. As noted above the said petition has been admitted on 12.07.2021 by NCLT and we find NCLT had declared moratorium u/s.14 of the I&B code and has prohibited continuation of pending suits or proceedings against the assessee including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority, till the completion of the corporate insolvency resolution process or until the Bench approves the resolution plan under sub-section (1) of Section 31 of I&B Code. In the order the Id NCLT has already appointed Mr. Vikash Parekh Gupta as Interim Resolution Professional (IRP).
4. We find that Id IRP had not impleaded himself to represent the assessee-company in the present appeal, hence, in view of Section 14 of I & B code there cannot be any continuation of any pending

proceedings before this Tribunal. Hence, we deem it fit to dismiss the appeal of the assessee as not maintainable in the present format.

5. However, liberty is given to the IRP or his successor in interest to implead himself on behalf of the assessee company by filing a Miscellaneous Application before us, if he so desires, at later stage, in which event this appeal shall be restored. With these observations, all the appeal of the assessee are hereby dismissed as not maintainable in the present format.
6. In the result, these appeals of assessee are dismissed.

Order pronounced in the open court on 27th February, 2023.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 27/02/2023

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Sr. Private Secretary, ITAT, Surat