

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.4674/DEL/2018
Assessment Year 2012-13

Asian Colour Coated Ispat Ltd., 26-P, Sector-33, Gurgaon.	vs.	DCIT, Central Circle-II, Faridabad.
TAN/PAN: AAFCA1873K		
(Appellant)		(Respondent)

Appellant by:	Shri Ved Jain, Adv. Shri Aman Garg, CA		
Respondent by:	Shri P.P. Sidharth, CIT-DR		
Date of hearing:	13	03	2023
Date of pronouncement:	28	03	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-II, Gurgaon ('CIT(A)' in short) both dated 27.04.2018 arising from the assessment order dated 31.03.2015 passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

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 19.10.2020 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.

3. The Ld. Sr.DR also endorsed the averments made in the e-mail of the assessee and submitted that an application for liquidation has been filed before the National Company Law Tribunal, New Delhi Bench by the Financial creditor namely State Bank of India. The application moved by SBI under section 7 of the code seeking initiation of Corporate Insolvency Resolution Process (CIRP) which has been admitted and the Delhi Bench of NCLT by its order dated 06.04.2021 have declared moratorium in terms of section 14 of the Insolvency and Bankruptcy Code, 2016 as per para 34 of its order.

4. The Ld. Sr.DR accordingly submitted that the present appeal in such circumstances cannot be pursued in view of the overriding provisions of insolvency code but however, prayed for liberty to

revive the captioned appeal as and when the moratorium period is over or revival of company takes place.

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 appeal.

6. Thus, in view of the moratorium declared by NCLT, all proceedings in the court of law, Tribunal etc. cannot continue in the light of Section 178(6) of the Act. That being the position, no useful purpose is going to be served in continuing the present proceedings. Therefore, this appeal needs to be consigned to the records.

7. For such reasons, the appeal of the assessee is dismissed with a liberty to the assessee to seek remedial measures in accordance with law as and when the moratorium period is over or order of the NCLT is modified or revival of the assessee company takes place or where it is necessary to do so in the interest of the parties.

8. In the result, the appeal of the assessee is dismissed in limine for statistical purposes.

Order was pronounced in the open Court on 28.03.2023.

Sd/-

Sd/-

**[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER**

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: **03.2023**

Prabhat