

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1597/DEL/2018 [A.Y. 2014-15]

M Tech Developers Pvt. Ltd., 144/2, Hari Nagar House, Ashram, Mathura Road, New Delhi-110014 PAN- AAECM5065E	<u>Vs</u>	DCIT, Circle-16(1), New Delhi.
APPELLANT		RESPONDENT

AND

**ITA No.4386/DEL/2017 [A.Y. 2010-11]
ITA No.7861/DEL/2018 [A.Y. 2009-10]**

DCIT, Circle-16(1), New Delhi.	<u>Vs</u>	M Tech Developers Pvt. Ltd., 144/2, Hari Nagar House, Ashram, Mathura Road, New Delhi-110014 PAN- AAECM5065E
APPELLANT		RESPONDENT

AND

**C.O. No. 203/Del/2017
[In ITA No.4386/DEL/2017 (A.Y. 2010-11)]**

M Tech Developers Pvt. Ltd., 144/2, Hari Nagar House, Ashram, Mathura Road, New Delhi-110014 PAN- AAECM5065E	<u>Vs</u>	DCIT, Circle-16(1), New Delhi.
Cross Objector		RESPONDENT

Assessee represented by	Sh. Rohit Tiwari, Adv. & Ms. Tanya Adv.
Department represented by	Ms. Sarita Kumari CIT(DR)
Date of hearing	19.04.2023
Date of pronouncement	24.04.2023

ORDER

PER ANUBHAV SHARMA, JM:

Heard and perused the record.

2. In regard to ITA no. 1597/Del/2018 for A.Y. 2014-15, adjournment application was moved as ld. Sr. DR is on medical leave. However, on brief hearing it was found that in regard to the assessee company the NCLT, Principal Bench, New Delhi, vide order dated 15.03.2022 has approved Resolution Plan, hence no effective hearing in the appeal is required. Therefore, the request for adjournment was declined.

3. Admittedly in assessee's own case for A.Y. 2007-08 and 2008-09 in ITA no. 2948/Del/2014 & ITA no. 208/Del/2016 respectively, this Bench has disposed of the appeals and cross-objections by restoring the same to the file of learned AO to decide the issue as per the order of NCLT. It would be appropriate to reproduce the findings from order dated 20.09.2022 in para nos. 4 to 6:

"4. We have carefully perused the order of the NCLT [supra]. The relevant findings read as under:

"28. We hereby approve this Resolution Plan, as approved by the CoC, placed by the Applicant before this Adjudicating Authority.

We, therefore, approve the Resolution Plan submitted by the Applicant along with the following directions in respect of the Corporate Debtor:

(i) *The order of the moratorium passed by this Adjudicating Authority under Section 14 of the IBC,2016 shall cease to have effect from the date of passing of this Order.*

(ii) *The Resolution Professional shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database.*

(iii) *The approved Resolution Plan shall become effective from the date of passing of this Order.*

(iv) The Monitoring Committee, as provided in the Resolution Plan, shall be setup within 07 days of passing of this Order which shall take all necessary steps for implementation of the Resolution Plan.

29. The Resolution Professional shall forthwith send a copy of this Order to the CoC and the Successful Resolution Applicant.

i. With the above, IA-3261 of 2021 stands allowed."

5. *In light of the above, we restore the captioned appeals and cross objections to the file of the Assessing Officer. The Assessing Officer is directed to decide the issues as per the order of NCLT after affording reasonable and adequate opportunity of being heard to the assessee.*

6. *In the result, all captioned appeals of the assessee and Revenue as well as the cross objections of the assessee are allowed for statistical purposes."*

4. In regard to A.Y. 2009-10 also vide ITA no. 7771/Del/2018, the assessee's appeal has been disposed of by a coordinate Bench with following findings in para nos. 2 & 3:

"2. *At the outset, it was brought to our notice that the order of NCLT dated 31.03.2022, the para no. 26 of the said order reads as under:*

"26. The SRA has prayed for the reliefs and concessions as enumerated under the Resolution Plan approved by the CoC. From the plan approval date all inquiries, investigation and proceedings, whether civil or criminal,

suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this Resolution Plan, shall stand withdrawn, satisfied and discharged. From the date of approval of the 'Resolution Plan', the Resolution Applicant shall be legally authorized to seek appropriate orders from respective authorities / courts/tribunals for renewal of licenses/withdrawal/dismissal or abetment of the proceedings as the case may be."

3. *Owing to this, the appeal of the assessee becomes infructuous."*

5. Hon'ble Supreme Court in Ghanshyam Mishra & Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal no. 8129 of 2019) vide order dated 13.04.2021 has given following relevant conclusion in para no. 95 in regard to claim of Revenue where Resolution Plan is approved by NCLT:

“CONCLUSION

95. *In the result, we answer the questions framed by us as under:*

(i) *That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of resolution plan;*

(ii) *2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect;*

(iii) *Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local*

authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.”

6. In the light of aforesaid , following earlier order dated 20.09.2022, the Bench is inclined to restore the issues to the file of learned AO to consider the issues in the light of aforesaid observations.

7. Resultantly, the appeals and the cross-objection are allowed for statistical purposes.

Order pronounced in open court on 24/4/23.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI