

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, AM AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 480/Mum/2021  
(Assessment Year: 2011-12)

M/s. L N Industries India Ltd. 8-3-898/16/4, Laxmi Narsimha Nivas Nagarjuna Nagar Colony Road No.2, Srinagar Colony Road No. 2, Hyderabad, Telangana-500 073	Vs.	ITO, Ward-16(1) Mumbai
PAN/GIR No. AAACL 4102 B		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri Neeraj Mangla
<b>Revenue by</b>	:	Shri Manoj Kumar Sinha
<b>Date of Hearing</b>	:	09.03.2023
<b>Date of Pronouncement</b>	:	20.04.2023

**ORDER**

**Per Kavitha Rajagopal, JM:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) – 48, Mumbai (‘Id.CIT(A) for short), passed u/s.143(3) of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2011-12. The assessee has challenged the addition of Rs.5,94,00,000/- made u/s. 64 of the Act along with the other related grounds.

2. The brief facts of the case are that the assessee company is engaged in the business of manufacturing of polyester and nylon texturized twisted dyed yarn. The assessee filed its return of income dated 30.09.2011, declaring total income at Rs.Nil. The assessee’s case was selected for scrutiny and the assessment order dated 28.03.2014 was passed by the Assessing Officer (A.O. for short) u/s. 143(3) of the Act by determining the

total income at Rs.6,04,20,918/- where the A.O. made an addition of Rs.5,94,00,000/- as unexplained cash credit u/s. 68 of the Act and disallowance u/s. 14A of Rs.14,88,867/- was made by the A.O.

3. The assessee was in appeal before the Id. CIT(A), challenging the impugned addition made by the A.O. An addition of Rs.5,94,00,000/- was made u/s. 68 of the Act, which pertains to the share capital of Rs.2,70,00,000/- and share premium of Rs.3,24,00,000/- received by the assessee company from various parties.

4. The Id. CIT(A) confirmed the said impugned addition made by the A.O. on the ground that the assessee has failed to furnish the details or evidences as to the source of the investments made by the four investors amounting to Rs.5,94,00,000/-. The Id. CIT(A) confirmed the addition as unexplained cash credits in the hands of the assessee.

5. The assessee is in appeal before us, challenging the order of the Id. CIT(A) in confirming the impugned addition.

6. During the appellate proceeding, the learned Authorised Representative (Id. AR for short) for the assessee submitted that the assessee's co. was undergoing insolvency proceedings before the Hon'ble National Company Law Tribunal (NCLT for short).

7. The learned Departmental Representative (Id. DR for short) for the Revenue had nothing to controvert the said fact.

8. Having heard the rival submissions and perused the materials available on record. We are of the considered opinion that since the assessee co. is undergoing insolvency proceedings, the same cannot be proceeded further for adjudication. In view of the

provisions of section 14 of the Insolvency and Bankruptcy Code, 2016 no proceeding can be continued during the moratorium period and hence we hereby dismiss this appeal with the liberty given to the assessee/RP as the case may be to restore the said appeal as and when required.

9. In the result, the appeal filed by the assessee is dismissed.

*Order pronounced in the open court on 20.04.2023*

Sd/-

(Prashant Maharishi)  
Accountant Member

Mumbai; Dated : 20.04.2023

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)  
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai