

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं .I.T.A Nos. 1229, 1230, 1231 & 1232/Del/2022
निर्धारण वर्ष/Assessment Year:2009-10,2010-11,2013-14 & 2014-15

ACIT, Central Circle : 2, Noida.	<u>बनाम</u> Vs.	M/s. Swati Health and Education Services Pvt. Ltd. D-14, 2 nd Floor, Preet Vihar, New Delhi - 110092.
		PAN No. AAJCS7569L
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by :	Shri Markandey Kumar Singh, Advocate;
राजस्वकीओरसे / Department by :	Shri B. M. Singh, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	26.04.2023
उद्घोषणाकीतारीख/Pronouncement on :	26.04.2023

आदेश / ORDER

PER BENCH :

1. These appeals are filed by the Revenue against the order of the Id. Commissioner of Income Tax (Appeals)-4 [hereinafter

referred to CIT (Appeals)] Kanpur, dated 14.02.2022 for assessment years 2009-10, 2010-11, 2013-14 and 2014-15 in deleting the additions made by the Assessing Officer in respect of loans received by the assessee, share application money introduced by the assessee.

2. At the time of hearing the ld. Counsel submitted that the Tribunal for the assessment year 2009-10 in ITA. No. 651/Del/2022 dismissed the appeal of the assessee by order dated 24.02.2023 for the reason that National Company Law Tribunal (NCLT) Principal Bench, New Delhi, had admitted the application in terms of section 7 of Insolvency and Bankruptcy (IBC), 2016 and imposed moratorium as envisaged under the provisions of section 14(1) of IBC. The ld. Counsel submits that following the order of the Tribunal the present appeals of the Revenue may also be dismissed as infructuous.

3. The ld. DR has no serious objection in following the order of the Tribunal for the assessment year 2009-10 and treating the appeals as infructuous. However, he requested that liberty may be given to the Revenue to revive the appeals after the proceedings before the NCLT are concluded.

4. We have heard the rival submissions perused the order of the Tribunal for the assessment year 2009-10 in ITA. No. 651/Del/2022. We observe that the Tribunal dismissed the appeal of the assessee for the assessment year 2009-10 observing that the matter has reached NCLT, Principal Bench, New Delhi, in IB-1035(PB)/2020 dated 4.03.2022 and the Tribunal had admitted the application in terms of section 7 of IBC, 2016 moratorium as per the provisions of

section 14(1) of IBC and hence the appeal was dismissed as infructuous. Considering the rival contentions and following the order of the Tribunal we treat these appeals as dismissed with liberty to the parties to seek revival of these appeals on final conclusion of the proceedings before the NCLT.

5. In the result, these appeals are dismissed as indicated above.

Order pronounced in the open court on : 26/04/2023.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 26/04/2023

MEHTA

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	26.04.2023
Date on which the typed draft is placed before the dictating member	26.04.2023

Date on which the typed draft is placed before the other member	26.04.2023
Date on which the approved draft comes to the Sr. PS/ PS	26.04.2023
Date on which the fair order is placed before the dictating member for pronouncement	26.04.2023
Date on which the fair order comes back to the Sr. PS/ PS	26.04.2023
Date on which the final order is uploaded on the website	26.04.2023
Date on which the file goes to the Bench Clerk	26.04.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	