

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**(DELHI BENCH 'E' : NEW DELHI)**  
**BEFORE SH. N.K.BILLAIYA, ACCOUNTANT MEMBER**  
**AND**  
**SH.ANUBHAV SHARMA, JUDICIAL MEMBER**  
ITA No. 1568/Del/2001, A.Y. 1996-1997

Addl. CIT, Special Range-4, New Delhi	Vs.	M/s.Moser Baer (India) Ltd. 63, Ring Road, Lajpat Nagar, New Delhi PAN :
Appellant		Respondent

CO. No. 112/Del/2005,  
(Arising out of ITA No. 1568/Del/2001, A.Y. 1996-1997)

M/s.Moser Baer (India) Ltd. 63, Ring Road, Lajpat Nagar, New Delhi PAN : AAAAA1111A	Vs.	Addl. CIT, Special Range-4, New Delhi
Appellant		Respondent

Assessee by	Sh. Upwan Gupta, Adv.
Revenue by	Ms. Raja Rajeshwari R., Sr. DR

Date of hearing:	26.04.2023
Date of Pronouncement:	03.05.2023

**ORDER**

**Per Anubhav Sharma, JM :**

The appeal has been preferred by the Revenue against the order dated 20.01.2007 of CIT(A)-XXI, New Delhi (hereinafter referred as

Ld. First Appellate Authority or in short Ld. 'FAA') in appeal No. 156/2000-2001 and Cross objection has raised by assessee.

2. Heard and perused the record.

3. Adjournment application has been moved on behalf of the revenue by Ld. Sr. DR. However, the Ld. AR submitted that the appeal has become infructuous in the light of fact that the assessee company has gone under liquidation. Citing certain orders of Supreme Court of India, Hon'ble High Court and the Co-ordinate Bench of Delhi in regard to the case of assessee it was submitted that it is now consistently held that as a liquidation proceedings have over riding effect over the claim of the revenue, the appeals of the assessee or revenue have become non-consequential. Ld. DR however submitted that the matter may be kept under abeyance.

4. It can be appreciated that the present appeal arises out of the challenge of penalty levied u/s 271(1)(c) of the Income Tax Act. The assessee is not appearing and the Ld. AR is representing the liquidation authority. The record shows corporate Insolvency Resolution Process is pending before NCLT after order dated 14.11.2017.

5. In assessee's own case Hon'ble Supreme Court while deciding Civil Appeal no. 4705/2014 vide order dated 21.07.2020, Hon'ble Delhi High Court disposing of ITA No. 793/2019 vide order dated 16.03.2022, ITA no. 1204/2018 vide order dated 16.03.2022, ITA No. 70/2020, 76/2020, 80/2022 vide order dated 22.09.2022 and a co-ordinate Bench vide ITA No. 4995.Del.2016 order dated 17.03.2021, disposed of the appeals without adjudicating anything on merits.

6. Thus, in the light of provisions of Insolvency and Bankruptcy Code, 2016 and the aforesaid orders in the case of assessee, the claim of revenue arising out of the proceedings under the Act have become infructuous. In the light of aforesaid, **the appeal and cross objection are dismissed being infructuous.**

**Order pronounced in the open court on 3<sup>rd</sup> May, 2023.**

**Sd/-**

**(N.K.BILLAIYA)**

**ACCOUNTANT MEMBER**

*Date:- 3<sup>rd</sup>.05.2023*

*\*Binita, SR.P.S\**

Copy forwarded to:

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

**Sd/-**

**(ANUBHAV SHARMA)**

**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI