

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

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.3536/DEL/2018  
Assessment Year 2014-15

ACIT Circle-21(1) New Delhi.	Vs.	Reverse Logistics Company Pvt. Ltd. Khasra no.337, 1 <sup>st</sup> Floor, Choudhry Satbir Complex, M.G. Road, Near CRC-2, Village Sultanpur, New Delhi
TAN/PAN: AAECR0690J (Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri H.K. Choudhary, CIT-DR		
Date of hearing:	28	03	2023
Date of pronouncement:	15	06	2023

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the Revenue against the order of the Id. Commissioner of Income Tax (Appeals)-XXV, New Delhi ('CIT(A)' in short) dated 23.02.2018 arising from the assessment order dated 27.12.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. The grounds of appeal raised by the Revenue read as under:

*"1. On facts and under circumstances of the case the Ld. CIT(A) has erred in law and facts in deleting the addition of Rs. 1,65,52,245/- on account of disallowance of loss in stock on fire without allowing necessary adjustment on account of short material and 10% dead stock as computed by Insurance Company in accordance with FIFO method.*

*2. On facts and under circumstances of the case the Ld. CIT(A) has erred in law and facts in deleting the addition of Rs. 3,74,13,486/- on account of disallowance of Premium on stock option (ESOP) ignoring the mandatory provision of CBDT Circular No. 9 of 2007 and its capital nature which is not an allowable expenditure u/s 37(1) of the IT Act.”*

3. The assessee filed return of income for Assessment Year 2014-15 in question on 30.11.2014 declaring a loss at Rs.23,05,06,466/-. In the scrutiny assessment, the loss returned by the assessee was brought down to Rs.17,64,74,160/- by making certain additions and disallowances.

4. In the first appeal, the CIT(A) has granted relief on the issues raised before him. The Revenue is in appeal against the aforesaid order of the CIT(A).

5. The matter was listed for hearing before ITAT on multiple occasions as per order sheet. However, none appeared for the assessee except on one occasion where one Shri Arpit Goel, CA appeared and asked for adjournment. It is further seen from the record that as per letter dated 28.03.2023 addressed to Tribunal, it was pointed out by Shri Arpit Goel, Vaish Associates Advocates that they are not in a position to prosecute the said Revenue Appeal in the absence of any instruction from their client despite efforts made in this regard. It was further submitted that as per information available in public domain, the assessee has been directed to be liquidated vide order dated 02.11.2021 passed by the NCLT.

6. The relevant operative paragraphs of the order passed by the NCLT placed before us read as under:

*“17. Accordingly, by exercising our power under Section 33 sub-Section (1)(a) pass the following order:-*

*i The Corporate debtor is liquidated with immediate effect in the manner provided under Chapter III Part II of the IBC 2016.*

*ii. Since the COC at Item no.10 has approved the appointment of Resolution Professional, Mr Pawan Kumar Agarwal as liquidator, hence, we approve*

*the appointment of Resolution Professional Mr. Pawan Kumar Agarwal to act as a liquidator u/s 34 (1) IBC, 2016.*

*iii. The liquidator is directed to take custody and control of the assets, property of the Corporate Debtor with immediate effect and made a public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;*

*iv. The Provision of Section 33 sub-Section 5,6 and 7 IBC, 2016 shall come into force with immediate effect. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;*

*v. Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued & preferential transactions and Fraudulent Trading or wrongful trading etc., if any.*

*vi. This Order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;*

*vii. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;*

*viii. The Registry is directed to communicate a copy of this Order to the Financial Creditor, the Corporate Debtor and Liquidator Mr. Pawan Kumar Agarwal IP immediately;*

*ix. A copy of this Order be sent by the Registry and Liquidator to the Registrar of Companies (RoC), NCT of Delhi & Haryana for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days;*

*x. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India for their record.*

*18. Accordingly, in terms of aforesaid order IA-2716/2021 in (IB)-1647(ND) 2019 is hereby allowed.”*

7. Thus, it appears that the NCLT has ordered liquidation of the assessee-company under the IBC, 2016. The NCLT has also observed that the order of moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh moratorium under Section 33(5) of the Code shall commence. This being the position, no useful purpose is going to be served in continuing with the present proceedings. Therefore, this appeal needs

to be consigned to the record. Notwithstanding the aforesaid observation, in the absence of records and material before the Tribunal, we are in no position to adjudicate on the correctness of the factual issues involved.

8. For such reasons, the appeal of the Revenue is dismissed with a liberty to the Revenue to seek remedial measures in accordance with law as and when it is in a position to justify the continuance of the proceedings or where it is otherwise necessary to do so in the interest of the parties.

9. In the result, the appeal of the Revenue is dismissed *in limine* for statistical purposes.

**Order pronounced in the open Court on 15/06/2023**

**Sd/-**

**[CHANDRA MOHAN GARG]  
JUDICIAL MEMBER**

DATED: **/06/2023**  
*prabhat*

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**