

**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.6400/DEL/2018
Assessment Year 2014-15

Reverse Logistics Company Pvt. Ltd. Khasra No.337, 1 st Floor, Choudhry Satbir Complex, M.G. Road, Near CRC-2, Village Sultanpur, New Delhi	Vs.	PrCIT-7 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 at the instance of the assessee against the revisional order of the Id. Principal Commissioner of Income Tax, Delhi-7 ('Pr.CIT' in short) dated 27.03.2018 wherein order passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) dated 29.03.2016 concerning AY 2013-14 was held to be erroneous in so far as prejudicial to the interest of the revenue within the meaning of Section 263 of the Act.

2. In the captioned appeal, the assessee seeks to agitate the revisional order passed by the Pr.CIT under Section 263 of the Act for Assessment Year 2013-14 in question. The assessee in the instant case filed return of loss amounting to Rs.9,94,71,803/-. The returned

income was assessed at the same figure in the assessment framed u/s.143(3) of the Act. Thereafter, the Pr.CIT in exercise of revisional jurisdiction conferred under Section 263 of the Act passed revisional order dated 27.03.2018 where the revisional Commissioner objected to the action of the Assessing Officer towards acceptance of credit arising from issue of shares amounting to Rs.79.77 crore stated to be received from non-residents. The Pr.CIT observed that the assessment order so passed is erroneous and prejudicial to the interest of the Revenue on the ground that genuineness of the share capital introduced in the assessee's books have not been properly examined on the contours of Section 68 and 56(2)(viib) of the Act. The Pr.CIT accordingly set aside the assessment framed by the Assessing Officer for Assessment Year 2013-14 in question.

3. In this backdrop, the assessee challenged the revisional action of the Assessing Officer. The assessee is in appeal against the aforesaid order of the Pr.CIT. The matter was listed for hearing 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.

4. 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."

5. On perusal, it is gauged 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.

6. For such reasons, the appeal of the assessee is dismissed with a liberty to the assessee 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.

7. In the result, the appeal of the assessee 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
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Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**