

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'J' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.847/Mum/2022
(Assessment Year :2017-18)**

M/s. Mercator Limited 3 rd Floor, Mittal Tower B Wing, Free Press Journal Marg Nariman Point Mumbai – 400 021	Vs.	DCIT 5(2)(1) Aayakar Bhavan Maharshi Karve Road New Marine Lines Churchgate Mumbai- 400 020
PAN/GIR No.AAACM5007A		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Samuel Pitta
Date of Hearing	20/04/2023
Date of Pronouncement	28/06/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against final assessment order dated 25/02/2022 passed in pursuance of direction given by the ld. DRP u/s.144C(5) vide order dated 24/01/2022.

2. It has been brought on record that National Company Law Tribunal, Mumbai (NCLT) under Insolvency and Bankruptcy Code 2016 has put a moratorium on legal

proceedings. The relevant portion of the order reads as under:-

“The above I.A. No. 959 of 2022 is allowed and the Corporate Debtor, Mercator Limited is ordered to be liquidated as a going concern.

*a. **Mr. Girish S. Juneja (Regn No: IPA-001/IP-PO0999/2017- 2018/11646)** and having office at 22 Dignity Apartments, Bon Lane, 7 Bungalows, Versova, Andheri (W) Mumbai: 400 053 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code*

b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the as liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016

d. The Liquidator appointed under section 34(1) of the Code will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator

e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

f. All the powers of the Board of Directors, Key Managerial Persons, the Partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

i. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

j. The Registry is directed to communicate this order to the Liquidator.

3. Once there is a moratorium by the NCLT and the powers of the Board of Directors has been suspended, therefore, till the committee of the creditors decides the resolution plan and directs Interim Resolution Process (IRP) to pursue the matter, no proceedings can be initiated. Therefore, at present, the present appeal is dismissed *in liminie* but with a liberty to the assessee to reconstitute the appeal before this Tribunal as and when the committee of creditors approve the resolution plan and IRP is given authority to pursue the appeal. Accordingly, the appeal of the assessee is dismissed in liminie.

4. In the result, appeal of the assessee is dismissed

Order pronounced on 28th June, 2023.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Mumbai; Dated 28/06/2023
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai