

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'A' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA Nos.6678 & 6679/Del./2017
(ASSESSMENT YEARS : 2011-12 & 2012-13)**

M/s. Aerens Jai Realty Pvt. Ltd.,
(known as Aerens Builders Pvt. Ltd.),
H – 16/A/947, Block – H, Gali No.16,
Sangam Vihar,
New Delhi – 110 062.

(PAN : AACCA6440P)

(APPELLANT)

vs. ACIT, CC – 9,
New Delhi.

(RESPONDENT)

ASSESSEE BY : Shri Vivek Bansal, Advocate
REVENUE BY : Shri P. Praveen Sidharth, CIT DR

Date of Hearing : 17.07.2023
Date of Order : 19.07.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

These appeals filed by the assessee are directed against the respective orders of Id. CIT (A) pertaining to respective assessment years.

2. At the outset, Id. Counsel of the assessee submitted that National Company Law Tribunal (NCLT) vide order dated 30.05.2023 has passed directions by appointing Shri Prabhakar Kumar as the Insolvency Resolution Professional under the provisions of the Insolvency and

Bankruptcy Code, 2016 (for short 'the Code') and submitted that he is not pressing the appeals.

3. We have heard both the parties and perused the records.

4. Provisions contained under section 238 of "the Code" are having an overriding effect over all other Central and State statutes including Income-tax Act as held by **Hon'ble Supreme Court in case of PCIT vs. Monnet Ispat and Energy Ltd. SLP (C) No.6483 of 2018 order dated 10.08.2018** by returning following findings :-

"Given section 238 of the Insolvency and Bankruptcy Code, 2016, it is obvious that the Code will override anything inconsistent contained in any other enactment, including the Income-tax Act."

5. In view of the matter, section 238 of the Code will have overriding effect over all other Central and State statutes including the Income-tax Act and all the claims including claim of the Income-tax Department under the Income-tax Act, 1961 shall be entertained by the Official Liquidator u/s 53 (1) of the Code. Keeping in view all these facts, Id. AR for the assessee stated at Bar that he does not press these appeals and same may be dismissed as withdrawn. Consequently, present appeal is dismissed as withdrawn having been become infructuous.

Order pronounced in the open court on this 19th day of July, 2023.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Dated the 19th day of July, 2023/TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.
