

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, MUMBAI

BEFORE SHRI G.S. PANNU, PRESIDENT, AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.1375/Mum./2023
(Assessment Year : 2017-18)

Pilot Mines And Minerals Pvt. Ltd.
(Undergoing CIRP Represented
Through its RP), 6, Kalandi Building
82, Lajpatrai Road, Opp. HDFC Bank
Vile Parle West, Mumbai 400 056
PAN – AAFCP7010D

..... Appellant

v/s

Dy. Commissioner of Income Tax
Central Circle-3(4), Mumbai

..... Respondent

Assessee by : Shri Rajesh Sanghvi
Revenue by : Shri R.A. Dhyani

Date of Hearing – 11/07/2023

Date of Order – 27/07/2023

ORDER

The present appeal has been filed by the assessee through its Resolution Professional appointed vide order dated 28/02/2023, passed by the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi ("*Hon'ble NCLT*") in Corporate Insolvency Resolution Process ("*CIRP*") initiated against the assessee under the provisions of the Insolvency and Bankruptcy Code, 2016 ("*the Code*"). In this appeal, the assessee has challenged the impugned order dated 24/02/2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals)-51, Mumbai, for the assessment year 2017-18.

2. From the perusal of the aforesaid order dated 28/02/2023, passed by the Hon'ble NCLT, we find that the petition for initiating CIRP against the assessee under section 7 of the Code read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, has been admitted, and Resolution Professional has been appointed to carry out the functions as per the provisions of the Code. We also find that the moratorium in terms of section 14 of the Code has also been initiated.

3. It is pertinent to note that as per the provisions of section 14 of the Code, the institution of a Suit or continuation of pending Suit or proceedings against the Corporate Debtor including the execution of any judgment, decree, or order in any Court of law, Tribunal, Arbitration Panel or other authorities, shall be prohibited during the moratorium period. The period of moratorium shall have the effect from the date of such order till the completion of CIRP; or if, during the CIRP period, Hon'ble NCLT approves the resolution plan under section 31(1) or passes an order for liquidation of corporate debtor under section 33 of the Code, the moratorium shall cease to have an effect on the date of such order.

4. During the hearing, the learned Authorised Representative placed on record the order dated 24/05/2023, passed by the coordinate bench of the Tribunal in Future Enterprises v/s ITO, in ITA No. 254/Mum./2023, wherein the coordinate bench in similar circumstances dismissed the appeal filed by the assessee in terms of the provisions of section 14 of the Code with a liberty to the assessee to prefer the appeal afresh or to seek recall of the order as soon as the moratorium period is over.

5. Thus, in view of the above, we dismiss the present appeal filed by the assessee with liberty that upon completion of the moratorium period, if it is so decided, the assessee may prefer the appeal afresh or seek recall of this order by impleading Managing Director / Director, representing the new management of the assessee company, or the Official Liquidator, as the case may be.

6. In the result, the appeal by the assessee is dismissed.

Order pronounced in the open Court on 27/07/2023

Sd/-
G.S. PANNU
PRESIDENT

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 27/07/2023

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai