

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1307/Ahd/2018
Assessment Year 2013-14**

| | | |
|--|----|---|
| Varia Engineering Works Pvt. Ltd. Plot No. 2005, Phase-IV, GIDC, Vatva, Ahmedabad-382445 PAN: AABCV0396G (Appellant) | Vs | The DCIT, Circle-4(1)(2), Ahmedabad (Respondent) |
|--|----|---|

**Assessee Represented: Ms. Dhvani Mehta, A.R.
Revenue Represented: Shri Anurag Chandra, Sr.D.R.**

Date of hearing : 01-02-2024
Date of pronouncement : 02-02-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 27.02.2018 passed by the Commissioner of Income Tax (Appeals)-8, Ahmedabad arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2013-14.

2. It is noted that the company is under Liquidation and the Liquidator Mr. Sunil Kumar Agarwal by its letter dated 23.01.2024 submitted as follows:

Withdrawal Application

Respected Sir.

We would like to submit as under:

1. Corporate Insolvency Resolution Process was initiated against Varia Engineering Works Pvt. Ltd (in Liquidation) (hereinafter referred to as "the assessee") by virtue of the NCLT order dated 21.12.2017 and the moratorium u/s 14 of the IBC code was imposed from same date. Upon finding no resolution of the assessee company, on 22.07.2019 the assessee company went into liquidation and undersigned was appointed Liquidator vide Hon'ble NCLT. Ahmedabad Order dated 07.08.2019 which has been intimated to Income Tax Department and in response to which a claim has been filed by the esteemed Income Tax Department on 27.09.2019 amounting to Rs. 88,48,11,650/- as under:

| A.Y. | Section | Demand (Rs.) |
|---------|-------------------|----------------|
| 2008-09 | 143(3) r.w.s. 147 | 3704040 |
| 2009-10 | 154 | 1064820 |
| 2010-11 | 143(3) r.w.s, 263 | 37718040 |
| 2010-11 | 271(1)(c) | 3179530 |
| 2011-12 | 250 | 26592420 |
| 2011-12 | 271(1)(c) | 22491478 |
| 2012-13 | 143(3) | 2317920 |
| 2013-14 | 250 | 474372700 |
| 2015-16 | 143(3) | 238609250 |
| 2015-16 | 271(1)(b) | 20000 |
| 2016-17 | 143(3) | 42324450 |
| 2016-17 | 271(1)(b) | 30000 |
| 2016-17 | 271(1)(c) | 32387002 |
| Total | | 88,48,11.650/- |

2. *Income Tax Department being claimant was also part of the Stakeholder's Consultation Committee, letter for the intimation of the same was sent to the Income Tax Department along-with the progress in the matter. Further, every notice to attend the Consultation Committee Meetings has been sent to the Income Tax Department, however not a single meeting is attended.*

3. *It may kindly be noted that IBC provisions shall have overriding effect as per Section 238 of Insolvency & Bankruptcy Code which states as under:*

"The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

4. *In furtherance of the foregoing submission, we, humbly apprise this honourable court of the intricate circumstances surrounding the matter at hand. With specific regard to the additions made during the year under consideration, we regret to inform Your Honour that the appointed liquidator finds themselves in an exceedingly disadvantageous position.*

5. *It is essential to expound upon the complexities of the situation. The liquidator, through no fault of their own, is regrettably devoid of the comprehensive details and corroborating documentary evidence that would be indispensable for crafting a robust and legally sound representation of the case before this esteemed bench. Despite conscientious efforts to procure the requisite Information, the liquidator has encountered insurmountable obstacles and unanticipated barriers, which have impeded their ability to fulfill their fiduciary duties to the fullest extent.*

6. *In light of these multifaceted challenges and the profound limitations imposed upon the liquidator's ability to effectively advocate on behalf of the assessee, we find ourselves at a crossroads wherein the pursuit of justice and the principles of fairness necessitate a certain course of action. It is with the utmost reverence for the integrity of this court's proceedings that we now humbly beseech. Your Honour for the gracious concession of permission to voluntarily withdraw the pending appeal.*

7. *This request is made with the utmost sincerity and in full recognition of our duty to uphold the principles of justice and equity. The decision to seek withdrawal is not taken lightly; rather, it is a conscientious response to the present circumstances, which preclude the petitioner from offering a comprehensive and compelling presentation due to the inadequacy of available materials. We firmly believe that this course of action aligns with the broader interests of judicial efficiency and the unimpeachable pursuit of justice within the framework of the law.*

In view of the above detailed submission, your honour is requested to kindly allow us to withdraw the appeal.

Yours Truly

*Date: 23.01.2024
Place: Ahmedabad*

*Sunil Kumar Agarwal
(Liquidator)*

3. Ld. Sr. D.R. appearing for the Revenue has no objection in withdrawing this appeal.

4. Recording the above letter, the appeal filed by the Assessee is hereby dismissed.

Order pronounced in the open court on 02-02-2024

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 02/02/2024**

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद