

आयकर अपीलीय अधिकरण “सी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.1335/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2011-12)

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आयकर अपील सं. ITA No.1336/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2012-13)

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आयकर अपील सं. ITA No.1337/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2013-14)

ACIT Circle-1, Kumbakonam.	बनाम/ Vs.	M/s. Karaikal Port Pvt. Limited No.1, Keezhavanjore, TR Pattinam, PB No.33, Karaikal-609 606.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.		AACCK-8122-E
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri P. Sajit Kumar (JCIT)- Ld. Sr. DR
प्रत्यर्थीकी ओरसे/Respondent by	:	Shri Vartik Chowksi (CA)-Ld. AR (through virtual mode)

सुनवाईकी तारीख/Date of final Hearing	:	08-02-2024
घोषणाकी तारीख /Date of Pronouncement	:	08-02-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by Revenue for Assessment Years (AY) 2011-12 to 2013-14 arises out of separate orders passed by learned

Commissioner of Income Tax (Appeals)-1, Trichy [CIT(A)] on 01-12-2019 in the matter of separate assessments framed by Ld. Assessing Officer for these years. The sole issue in the appeals is depreciation on intangible assets.

2. The Ld. AR (appearing in virtual mode), at the outset, placed on record copy of order of Hon'ble National Company Law Tribunal (NCLT), Division Bench-1, Chennai passed on 31-03-2023 in IA(IBC)/1593/(CHE)/2022 in CP(IB)/85 (CHE)/2022 & ors. The Ld. AR submitted that as per this order, Corporate Insolvency Resolution Process (CIRP) in respect of assessee corporate debtor was initiated by Tribunal vide order dated 29-04-2022. As per resolution plan as approved by the COC, successful resolution applicant (SRA) acquired the corporate debtor as ongoing concern and undertook to settle the admitted claims by the resolution professional (RP) in accordance with the terms and timelines contained under the resolution plan. The SRA has committed to make certain payments which have been enumerated in para 7.1 of the order. The resolution applicant under the resolution plan has sought for 8 reliefs and waivers from Hon'ble NCLT. With respect to Government dues, following order has been passed by Hon'ble NCLT:-

S. No.	Relief and Waiver sought for by the SRA	Orders Thereon
1. to 5.	
6.	Other than as specifically addressed in accordance with the provisions of this Resolution Plan, any and all other claims, rights and entitlements of any person, including any actual and potential creditors of the Corporate Debtor (including but not limited to all Financial Creditors, operational creditors, other creditors and Governmental Authorities and any person who may claim to be a creditor by way of exercise of rights under Applicable laws or equity), whether or not such claims, rights or entitlements (including any demand for any losses or damages, principal, interest, compound interest, penal	Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Limited.</i>

	<p>interest, liquidated damages, and other charges already accrued / accruing or in connection with any third party claims) have been filed before the Resolution Professional or not, whether admitted by the Resolution Professional or not, whether or not set out in the information memorandum, the virtual data room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, being due or contingent, asserted or unasserted, crystallized or uncrystallized, known or unknown, disputed or undisputed, present or future, shall be deemed to be written off and permanently extinguished on the effective date, on and with effect from the NCLT approval date in the following manner:</p> <p>(i) for such claims, rights and entitlements (as mentioned above) relating to the period upto the CIRP commencement Date, the same shall stand extinguished by virtue of the order of the NCLT approving this Resolution Plan and (i) for such claims, rights and entitlements (as mentioned above) relating to the period commencing from the CIRP commencement date till effective date, the same shall stand extinguished and settled in full by virtue of the payment of the CIRP costs and Interim period costs as well as by deemed agreement herewith of all claimants and other stakeholders of the Corporate Debtor pursuant to the terms of the Resolution Plan and on account of its binding effect on all such shareholders. The Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have an obligation, liability or duty in relation thereto.</p>	<p>2021 SCC Online SC 313</p>
7.	
8.	

The Ld. AR thus submitted that in view of the above directions, the present appeals have been rendered academic in nature.

3. Upon perusal of order of Hon'ble NCLT, It could thus be seen that relief has been granted for Government dues relating to the period up-to the CIRP commencement date and such dues shall stand extinguished. The same has been granted as per the decision of Hon'ble Supreme Court in the case of **Ghanashyam Mishra & Sons v. Edelweiss Asset Reconstruction Ltd.** The Hon'ble Delhi High Court in its recent decision of **Tata Steel Ltd. vs. DCIT (156 Taxmann.com 104)** inter-alia held that a successful applicant whose Resolution Plan has been approved

should not be put in a position where it is called upon to liquidate dues of creditors, including statutory creditors, which were not embedded in the Resolution Plan. A successful applicant is, in law, provided with a "clean slate"; therefore, dues for the period prior to the date when the Resolution Plan was approved cannot be recovered.

4. In view of the aforesaid order of Tribunal extinguishing the Government dues, the appeals filed by the revenue have been rendered infructuous and merely academic in nature. Accordingly, we see no reason to proceed with the same.

5. All the captioned appeals stand dismissed.

Order pronounced on 08th February, 2024.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 08-02-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF