

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

[Before Shri Rajesh Kumar, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 670/Kol/2023
Assessment Year : 2013-14

M/s. City Mall Vikash Private Limited	vs	DCIT, Circle-2(1), Kolkata
PAN: AADCC 2523 J		
Appellant		Respondent

Date of Hearing	13.12.2023
Date of Pronouncement	13.02.2024
For the Assessee	Mr. Subash Agarwal, Advocate
For the Revenue	Mr. B.K Singh, JCIT, Sr. DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2013-14 is directed against the order dated 12.05.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The assessee has raised the following grounds of appeal:

"1. For that the Id. CIT(A) erred in dismissing the appeal as infructuous when it was requested to drop the case/proceeding by deleting the additions as well as the demand raised on the assessee.

2. For that on the facts and circumstances of the case, all the statutory liabilities including Income Tax Act, 1961 for the period prior to 10.07.2020 have been waived as per the NCLT order and therefore the demand should have been deleted.

3. For that the appellant craves leave to add, alter or withdraw any ground/s appeal on or before hearing of the appeal."

2. Brief facts of the case are that in the case of assessee assessment was framed u/s 143(3) of the Act making certain additions.

3. Aggrieved by the order of AO assessee preferred an appeal before the ld. CIT(A). During the pendency of proceeding before the ld. CIT(A), the assessee company has passed through insolvency process and taken over by Shrawan Kumar Agrawal consortium as per resolution plan dated 22.11.2019. The resolution plan which was duly approved by adjudicating authority vide order dated 10.07.2020. At the time of pending of the impugned order before the ld. CIT(A) it was brought to notice of adjudicating authority by the AR praying for drop the proceeding against the assessee company by deleting all outstanding demand in terms of approved resolution plan passed by NCLT by which extinguished all govt. liabilities in terms of para no. 08.01.23. However, the ld. CIT(A) after considering the submission of the party dismissed the appeal of the assessee.

4. Aggrieved by the order of ld. CIT(A), assessee is in appeal before the Tribunal.

5. At the time of hearing, ld. AR has stated that the revised ground no. 1 taken by the assessee in the memorandum of appeal before the Tribunal does not want to press. Accordingly, the revised ground termed as dismissed not pressed. The remaining ground no. 1 & 2 are relating to challenging the impugned order passed by ld. CIT(A) by which dismissing the appeal of the assessee as infructuous by not considering the prayer of assessee before him to delete the addition as well as outstanding demand relating to assessment year in question in terms of Hon'ble NCLT's order passed on 10.07.2020 by which Tribunal waived of prior period

govt. liabilities in the case of assessee and accordingly demand should be deleted. On the other hand ld. DR supported the order of ld. CIT(A).

6. We after hearing the rival submissions of the parties and perused the material available on record find force in the contention made by the ld. AR and note that in terms of NCLT's order dated 10.07.2020 at para no. 8.1.23 had clearly stated by holding that all govt. liabilities prior to the passing of order of NCLT has extinguished. Accordingly, we allow ground no. 1 & 2 raised by the assessee by directing the ld. AO to delete the outstanding liabilities against the assessee in terms of the Hon'ble NCLT's order dated 10.07.2020 passed in the case of assessee as we discussed in foregoing paragraph.

7. Ground no. 3 is general in nature need not required to be adjudicated. In terms of the above appeal of the assessee is hereby allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 13.02.2024

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 13.02.2024
Biswajit, Sr. PS

ITA No. 670/Kol/2023
AY: 2013-14
M/s. City Mall Vikash Private Limited

Copy of the order forwarded to:

1. Appellant – M/s. City Mall Vikash Private Limited, C/o Rajesh Mohan & Associates, Unit No. 18, 5th Floor, Bagati House, 34, Ganesh Chandra Avenue, Kolkata-700013.
2. Respondent – DCIT, Circle-2(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata