

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सटस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. Nos. 635, 636 & 637/Kol/2023
Assessment Years: 2012-13, 2014-15 & 2016-17

M/s Cosmic Ferro Alloys Limited (PAN: AACCC 1730 C)	Vs.	DCIT, Circle-3(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	13.12.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.04.2024
For the Appellant/ निर्धारिती की ओर से	Shri Sunil Surana, A.R
For the Respondent/ राजस्व की ओर से	Shri S. Dutta, CITDR

ORDER / आदेश

Per Rajesh Kumar, AM:

These are the appeals preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 10.05.2023 for the AYs 2012-13, 2014-15 & 2016-17.

2. The common issue raised in all these appeals filed by the assessee is against the order of Ld. CIT(A) dismissing the appeal as infructuous on the ground that Kolkata Bench of National Company Law Tribunal has passed an order on 16.01.2018 under Insolvency and Bankruptcy Code, 2016.

3. Facts in brief are that the assessee company has defaulted in the payment of debts due to City Bank and consequent to which the City Bank had filed an application before NCLT , Kolkata to initiate the proceedings under Corporate Insolvency Resolution Process u/s 7 of Insolvency and Bankruptcy Code, 2016 and accordingly NCLT has passed an order on 16.01.2018 thereby all the existing statutory liabilities to various Govt Deptts. including income taxdept. have been extinguished . The issue has also been decided in assessee's own case in ITA no. 2017/Kol/2019 on the basis of the same order of NCLT.

4. The grievance of assessee is that the Ld. CIT(A) has dismissed the appeal as infructuous instead of directing the AO to delete the additions and demand of income tax . In our opinion, once the order has been passed by NCLT under Insolvency and Bankruptcy Code, 2016 under Income Tax Act, all the statutory dues on account of income tax, Sales Tax,/VAT/GST, Excise Duty due to various Govt Departments of the Govt are extinguished. Therefore, we find merit in the appeals of the assessee that instead of dismissing the appeals as infructuous, the additions and the Ld. CIT(A) should have deleted the demand. Therefore, accepting the prayers of the assessee,we hereby set aside the order of Ld. CIT(A) and direct the AO to delete the demand raised by the assessee. Consequently all the appeals of the assessee were allowed.

5. In the result, all the appeals of the assessee are allowed.

Order is pronounced in the open court on 5th April, 2024

Sd/-
(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

Sd/-
(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 5th April, 2024

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Cosmic Ferro Alloys Ltd., C/o, Rajesh Mohan & Associates, Unit No. 18, 5th Floor, Bagati House, 34, Ganesh Chandra Avenue, Kolkata-700013.
2. Respondent – DCIT, Circle-3(1), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata