

IN THE INCOME TAX APPELLATE TRIBUNAL “I” BENCH, MUMBAI

**BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAJ KUMAR CHAUHAN, JM**

ITA No. 1182/Mum/2021
(Assessment Year: 2015-16)

ITA No. 1246/Mum/2022
(Assessment Year: 2018-19)

Kreuz Subsea Pte Ltd.
C/O SRBC & Associates LLp
16th Floor, The Ruby, 29
Senapati Bapat Marg,
Dadar (West) Mumbai-400 028

(Appellant)

The Asst. Commissioner of
Income Tax,
Int Tax Circle 3(1)(2)
Vs. 16th Floor, Air India Building,
Nariman Point,
Mumbai-400 020

(Respondent)

PAN No. AADCK6822G

Assessee by : Shri Milan Kapadia, AR
Revenue by : Shri Anil Sant, DR

Date of hearing: 25.04.2024
Date of pronouncement : 26.04.2024

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No. 1246/Mum/2022 is filed by assessee for A.Y. 2018-19, against the assessment order passed by the Asst. Commissioner of Income Tax, International Taxation, Circle 3(1)(2), Mumbai, dated 21st March, 2022.
02. ITA No. 1182/Mum/2021, is filed by the assessee for A.Y. 2015-16, against the assessment order passed by Dy. Commissioner of income Tax, International Taxation, 3(1), Mumbai, dated 29th April, 2021,



under Section 143(3) read with section 144C(13) of the Income-tax Act, 1961 (the Act).

03. These appeals were earlier disposed off by the co-ordinate Bench holding that Assessee Company is incorporated in Singapore and is currently in liquidation because of creditors' voluntary winding up in pursuance to Section 180 of the Insolvency, Restructuring and Dissolution Act, 2018 of Singapore.
04. Form no.36 was required to be resubmitted duly signed by the liquidator. As such form no.36 duly signed by the liquidator was submitted; the co-ordinate Bench recalled the order. Registry was directed to issue notice to the liquidator by email mentioned in form no.36. Pursuant to that these appeals were re-fixed for hearing.
05. Today, when these appeals were called for hearing, a letter dated 23rd April, 2024, was submitted by liquidator, wherein he states that the liquidator has submitted a proposal to the committee of creditors for appointing a counsel to argue the matter before the Tribunal. Such approval is awaited and therefore, he is seeking an adjournment.
06. We find that these appeals were recalled. Form no.36 is filed by the liquidator on 23rd October, 2023. Still after the six months there is no finalization even about the counsel, who will appear. It is also clear that assessee is in voluntary liquidation.
07. In view of the above facts, it is not possible for us to wait indefinitely and keep these appeals pending. Earlier also these appeals were disposed off as form no.36 were not verified by the liquidator. Even after six months, still counsel is not finalized. It is



also not stated by the learned Authorized Representative by what time it would be finalized. The learned Authorized Representative categorically stated that there is no instruction from the liquidator. In view of this, it is not possible to keep these appeals pending indefinitely. Accordingly, we dismiss these appeals holding that there is no response from liquidator about when these proceedings would be conducted. Neither the minutes of the creditors committee is submitted. It is also not shown that the liability raised by the Income Tax Department is also shown as a liability payable by the liquidator. In absence of this information, we do not have any other option but to dismiss the appeal of the assessee.

08. However, we give liberty to the liquidator that if within a reasonable time, it is found that assessee wants to contest this appeal, he may file necessary application for recall of this orders.
09. In the result, both the appeals are dismissed.

Order pronounced in the open court on 26.04.2024.

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 26.04.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,



True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai