

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.560, 561 & 562/Chny/2022
निर्धारण वर्ष /Assessment Years: 2009-10, 2010-11 & 2012-13

Vasan Health Care Pvt. Ltd.,
No.120A, Bazaar Road,
Saidapet,
Chennai – 600 015.
[PAN: AACCV-7028-E]

**The Principal Commissioner
of Income Tax,**
Central-2,
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri J.K.Reddy, C.A (Virtual)
: Shri M. Murali, CIT

सुनवाई की तारीख/Date of Hearing

: 06.06.2024

घोषणा की तारीख /Date of Pronouncement

: 12.06.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid three appeals filed by the assessee are directed against the revisionary orders of Learned Principal Commissioner of Income Tax, Central-2, Chennai [hereinafter "PCIT"] u/s. 263 of the Income Tax Act, 1961 (hereinafter "the Act") dated 24.03.2021, 17.03.21020 & 30.03.2021 for Assessment Years 2009-10, 2010-11 & 2012-13, respectively.

: - 2 - :

2. The Ld. A.R has submitted that the Hon'ble National Company Law Tribunal, Division Bench, Chennai (NCLT) vide order dated 03.10.2019 admitted the assessee-company into Corporate Insolvency Resolution process under Insolvency and Bankruptcy Code, 2016 (hereinafter "IBC") and moratorium was declared u/s. 14 of IBC, 2016. The moratorium has continued till passing the final order on 03.02.2023 by the Hon'ble NCLT . The Ld. A.R has submitted that the order u/s. 263 of the Act was passed during moratorium period and he only wants to press one ground that the Ld. PCIT erred in passing the order u/s. 263 of the Act during moratorium period. The Ld. A.R further submitted that amount approved for statutory liability is only Rs. 1 Crore out of which Rs. 82.18 only comes to Income Tax Department towards the claim and therefore, even if the orders of Ld. PCIT are upheld the demands become infructuous since, the demands arisen out of those years do not form part of resolution plan. In view of the above, a report was called for from the Ld. CIT-DR on the consequence to final order passed by Hon'ble NCLT, Division Bench, Chennai. The Ld. CIT-DR has submitted factual report by the Assessing Officer as under:

"In response to the reference cited above a factual report in the case of M/s.Vasan Health Care Pvt. Ltd. is hereby submitted as below:

2) Total demand as per the claim in form-F submitted to the interim resolution professional is Rs.506.73.13.053/-, out of

: - 3 - :

which an amount of Rs.84,15,847/- was admitted in accordance with the decision of the Hon'ble Supreme Court and the balance of Rs. 505.88.97.206/- was not admitted. Out of the amount not admitted, an amount of Rs.162,33,37,235/- was withdrawn by the income tax department vide their revision order u/s 154 of the Income tax Act, 1961 dated 31/03 /2019 for the AY 2015-16.

3). The Department has not filed any appeal against the aforesaid NCLT-order till date.

4) The Hon'ble NCIT, Division Bench, Chennai passed a final order vide IA(IBC)288(CHE) /2022 in CA/ 1/IB/2017 dated 03.02.2023. As per serial No. 22 (page no. 39) of Schedule I - Relinquishment/waiver of liabilities and approval of the said order, the Hon'ble NCLT held that:

"To provide relief to the Company from all past litigations up to the date of implementation of this resolution Plan pending at different levels and provide waiver from all tax dues including interest, penalty & prosecution for all historic disclosed tax dues and undisclosed tax dues. All pending notices, assessment order, pending summons and pending assessments (including those set out in the table below) towards the company would be treated as closed. Further no action would d be taken for any action/ transaction carried out before the Implementation date.

It is clarified that no tax (including interest & penalty) would be paid for any liability or claim raised or non- compliance for period up to the Implementation date. Further, any re-assessment, revision or other proceedings under. the provisions of the Income Tax Act would be deemed to be barred in relation to any period prior to the Implementation Date by virtue of the the NCLT approving this Resolution Plan and the company or the Resolution Applicant shall at no point of time be directly or indirectly held responsible or liable in relation thereto."

In view of the above, since no amount of funds have been earmarked for the dues under direct taxes, the entire demand for all the assessment years till AY 2022-23 were reduced to NIL by passing orders u/s 156A of the I.T. Act, 1961."

3. We have taken on record the factual report of the A.O, whereby the entire demand for all the A.Ys till A.Y 2022-23 has been reduced to Nil by passing order u/s. 156A of the Act. As per Section 31 of IBC,

: - 4 - :

2016, resolution plan as approved by adjudicating authority shall be binding on the corporate board and its employees, Members, creditors, guarantor and other stakeholders involved in the resolution plan. The department has already given effect to Hon'ble NCLT order reducing demand to Nil. As there is no remaining cause for grievance, the appeals have become moot and therefore dismissed.

4. In the result, all the three appeal filed by the assessee are dismissed.

Order pronounced on 12th June, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)
उपध्यक्ष / Vice President

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 12th June, 2024.
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF