

IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI

**BEFORE SHRI B R BASKARAN, AMAND
SHRI SANDEEP SINGH KARHAIL, JM**

ITA No. 1294/Mum/2024
(Assessment Year:2016-17)

ACIT-5(3)(1) Room No. 573, 5 th Floor, Aaykar Bhavan, M K Road, Churchgate, Mumbai-400 020	Vs.	Varun Resources Limited Laxmi Building, 6, Shoorji Vallabhdas Marg, Mumbai GPO Mumbai-400 001
PAN/GIR No.AAECR 9929 E		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	ShriAnkush Kapoor
Date of Hearing	:	13.06.2024
Date of Pronouncement	:	14.06.2024

ORDER

Per B R Baskaran, AM:

The Revenue has filed this appeal challenging the order passed by the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), wherein he has deleted the penalty levied u/s. 271(1)(c)of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2016-17.

2. None appeared on behalf of the assessee. The learned Departmental Representative ('Id. DR' for short) submitted that the assessee company is subjected to corporate insolvency resolution process (CIRP), vide order dated 14.06.2017 passed by the National Company Law Tribunal (NCLT), Mumbai Bench. He further submitted that the Id. Assessing Officer ('A.O.' for short) had also levied penalty u/s. 271B of the Act

and the same was challenged by the assessee before the Id. CIT(A) as well as before the ITAT. The Tribunal, vide its order dated 27.05.2024 passed in ITA No. 4517/Mum/2023 has restored the issue to the file of the Id. CIT(A), since the moratorium issued by the NCLT on the proceedings against the assessee will override the provisions of the I. T. Act. The Id. DR submitted that the issues contested in this appeal may also be restored to the file of the Id. CIT(A) following the decision rendered by the co-ordinate bench (referred above).

3. Having regard to the submissions made by the Ld D.R and following the decision rendered by the co-ordinate bench in the assessee's own case (referred above), we set aside the order passed by the Id. CIT(A) and restore all the issues to his file with similar directions given by the co-ordinate bench in the order referred supra.

4. In the result, the appeal filed by the Revenue is treated as allowed.

Order pronounced in the open court on 14.06.2024.

Sd/-

Sd/-

(Sandeep Singh Karhail)
Judicial Member

(B R Baskaran)
Accountant Member

Mumbai; Dated : 14.06.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai