

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 1559/MUM/2024
(Assessment Year : 2016-17)**

Ornate Spaces Private Limited 774, Ornate Galaxy, Tilak Road, Parsi Colony, Dadar (East), Mumbai-400014	Vs.	National Faceless Assessment Centre New Delhi.
PAN/GIR No. AABCO1702B		
(Appellant)	..	(Respondent)

Assessee by	Ms. Ifra Khan
Revenue by	Ms. Madhu Malati Ghosh(CIT-DR.)
Date of Hearing	19/06/2024
Date of Pronouncement	24/06/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 30.01.2024 passed in Appeal no. CIT(A)13, Mumbai/10196/2018-19 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) u/s. 250 of the Income-tax Act, 1961 for the Assessment year [A.Y.] 2016-17.

2. The appellant assessee has approached this tribunal on the following grounds:

“1. The Ld. Commissioner of Income Tax Appeals [‘CIT (A)’] erred by passing the Order upholding the addition of Rs. 21,95,50,212/- despite request to keep the proceedings in abeyance pending cancellation of demand in view of passing of Order by NCLT dated 6th October, 2023 in case of the appellant whereby demand under reference got cancelled and appeal filed before CIT(A) became otiose. Consequently, Ld. CIT(A) ought to have kept the appellant proceedings in abeyance.

2. The Ld. CIT (A) erred in not annulling/cancelling the assessment order passed u/s. 143(3) r.w.s. 147 of the Act notwithstanding the fact that the resolution plan has been approved u/s. 31 of the Insolvency and Bankruptcy Code, 2016, being binding on the Central Government and no claim of the demand for the AY 2016-17 was made during the IBC proceedings. Consequently, the Ld. CIT(A) ought to have quashed the order.

3. The Ld. CIT(A) erred in upholding the addition made by the Ld. AO of Rs. 21,95,50,212/- being unexplained cash credits u/s 68 of the Act. Consequently, Ld. CIT(A) ought to have directed the Ld. AO to delete the addition made of Rs. 21,95,50,212/-u/s 68 of the Act.

4. It is humbly prayed that the reliefs as prayed for hereinabove should be granted.....”

3. Learned representative for the assessee has filed an application dated 04.06.2024 with a prayer to consider the appeal under reference as withdrawn, stating that Hon’ble Bombay High Court, vide order dated 10.05.2024, has quashed the assessment order dated 29.05.2023.

4. We have heard learned representative for the revenue.

5. Hon’ble Bombay High Court has passed order dated 10.05.2024 in writ petition(L) no. 16015 of 2024 in the following terms:

“.....2.Ms Vissanji states that in view of the law as laid down by the Apex Court in Ghanshyam Mishra & Sons (P) Ltd. Vs. Edelweiss Asset Reconstruction Co. Ltd., none of the orders referred to in prayer clause (a) of the petition for Assessment Years 2015-16 to 2017-18 and Assessment year 2020-21, can be sustained. Ms Vissanji states that these orders impugned in the petition were

passed either during the period when the moratorium was in force or after the NCLT approved the resolution plan. Mr. Deshmukh in fairness agrees.

3. In the circumstances, petition disposed in terms of prayer clause (a), which reads as under:

(a) This Hon'ble Court may be pleased to issue under Article 226 of the Constitution of India an appropriate direction, order or writ including a writ in the nature of Certiorari calling for the records of the case and after satisfying itself as to the legality thereof, quash and set aside the following orders and the demands raised on the Petitioner”

AY	Date	Order under section	Passed by
2015-16	29.05.2023	147 r.w.s 144 r.w.s 144B	Respondent No.4
2016-17	12.05.2023	147 r.w.s 144 r.w.s 144 B	Respondent No.4
2016-17	24.12.2018	143(3)	Respondent No.3
2017-18	26.05.2023	147 r.w.s 144 r.w.s 144 B	Respondent No.4
2017-18	13.08.2021	272A(1)(d)	Respondent No.4
2020-2021	30.03.2024	148A(d)	Respondent No.1

6. In view of the prayer made by the assessee on the basis of the aforesaid order passed by Hon'ble Jurisdictional Bombay High Court, the appeal has become otiose, hence dismissed as withdrawn.

Order pronounced on 24.06.2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated 24/06/2024
Anandi Nambi, Steno

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai