

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI**

**BEFORE  
SHRI M BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 1052/DEL/2023  
Asstt. Year: 2014-15

JSW Ispat Special Products Limited (Formerly known as Monnet Ispat & Energy Ltd.) 11 Monnet House, Masjid Moth, Greater Kailash-II New Delhi – 110 048 PAN AAACM0501D	Vs.	DCIT, Circle-17(1), New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	None
Department by:	Shri Sanjay Kumar, CIT(DR)
Date of Hearing:	22.05.2024
Date of pronouncement:	02.07.2024

**ORDER**

**PER VIMAL KUMAR, JM**

The assessee's appeal is against order dated 30.12.2022 of the Learned Commissioner of Income Tax (Appeals), New Delhi [hereinafter referred as Ld. CIT(A)] dismissing the appeal as infructuous against assessment order dated 29.12.2016 of the Learned Deputy Commissioner of Income Tax (hereinafter referred as Ld. AO).

2. Brief facts of case are that return of income was filed on 30.11.2014. The case was selected for scrutiny under CASS. First notice under section 143(2) was issued on 28.08.2015. Notices under section 142(1) along with detailed questionnaire dated 12.4.2016 and another notice dated 9.8.2016 were issued. Chartered Accountant / Authorised Representative of assessee appeared and furnished necessary details. After examining assessment order dated 29.12.2016 was passed by Learned AO.

3. Appellant/assessee preferred appeal before the Learned CIT(A) which was dismissed as infructuous vide order dated 30.12.2022.

4. Being aggrieved, appellant/assessee preferred present appeal with grounds as:-

*“1. (a) That on the facts of the case, in the circumstances of the case and in law, the Ld. CIT(A)- 31 has erred in law in confirming arbitrary disallowance of Rs. 4,39,07,564/- on account of bogus claim of depreciation which needs to be deleted.*

*(b) That on the facts of the case, in the circumstances of the case and in law, the Ld. CIT(A)- 31 has erred in considering the fact that depreciation of Rs.51,70,556/- (included in total disallowance of Rs.4,39,07,564/-) has already been deleted by CIT(A) such deletion is confirmed by Hon'ble ITAT and thus a sum of Rs.51,70,556/- needs to be deleted in full.”*

5. At the time of hearing none appeared on behalf of the appellant/assessee.

6. Learned representative for department of Revenue submitted that Learned CIT(A) had dismissed assessee's appeal as infructuous.

7. From examination of record in light of above submission it is crystal clear that the State Bank of India, the secured financial creditor of the company filed an application under section 7 of Insolvency and Bankruptcy Code, 2016 (IBC) before the Hon'ble National Company Law Tribunal, Mumbai Bench (NCLT) on 21.06.2017 as the assessee company had defaulted in repayment of the outstanding secured loans to various lenders. The Hon'ble NCLT vide order dated 18.07.2017 in C.P. No. 1139/I&BP/NCLT/MAH/2017 admitted the petition filed by the State Bank of India under section 7 of the IBC against the assessee company. Hon'ble NCLT in MA 346/2018 CP(IB) 1139(MB)/2017 passed final order under section 31 of IBC, 2016 on 24.07.2018 approving the resolution plan filed by successful Resolution Applicant with modifications as mentioned in the order. The order passed by Hon'ble NCLT under section 31 of IBC is binding on the corporate debtor and its employees, members, creditors including the Central Government, any State Government or any local authority to whom debt is owed in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan. The matter regarding the status of dues of the Income Tax Department consequent to the approval of Resolution Plan by NCLT came up for consideration by the ITAT, Delhi

Bench in the case of the assessee in ITA no. 173/DEL/2018 for A.Y. 2013-14 dated 16.08.2021, the relevant portion of which is extracted below: -

*“5. We have gone through the record in the light of submissions made on either side. Dues to the Income-tax Department are reflected in list B appended to the order dated 24.07.2018 passed by the NCLT. By such order, NCLT observed that there is a huge difference in the total amount of admitted secured financial creditors which is to the tune of Rs. 1,14,78,09,50,325/- and the liquidation value of the company to the tune of Rs. 23,56,35,25,186/- and therefore, by application of the waterfall mechanism mentioned in section 53 of the Code, the liquidation value due to unsecured financial creditors, operational creditors and other creditors of the assessee becomes nil. It is clear that in terms of the resolution plan as approved by the NCLT, all claims or demands or liabilities or obligations owed or payable to or assessed by or assessable by the Central Government/ State Government in relation to any period prior to the acquisition, will be written off in full and will be deemed to be permanently extinguished. The position of law is clear in view of the decision of Hon'ble Supreme Court in the case of Ghanashyam Mishra and Son vs. Edleweiss Assets Reconstruction Company Ltd. (Civil appeal no. 8129/2019 - Order dated 13.04.2021.*

*6. In these circumstances, we are of the considered opinion that the dues to the Income-tax Department for the assessment year 2013-14, which are reflected in the list-B appended to NCLT order stood fully extinguished and no useful purpose would be served by adjudicating this matter. With this view of the matter, we dismiss the appeal of the Revenue.”*

8. In view of the above material facts the order of Learned CIT(A) is just, fair, reasonable, legal and deserves to be upheld.

9. No other point was argued.

10. In the result, the appeal of the assessee is dismissed.

**Order pronounced in the open court on 2<sup>nd</sup> July, 2024.**

**sd/-**

**(M BALAGANESH)  
ACCOUNTANT MEMBER**

**sd/-**

**(VIMAL KUMAR)  
JUDICIAL MEMBER**

Dated: 02/07/2024

***Veena***

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	