

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.610/MUM/2024  
Assessment Year: 2018-19**

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| <b>DCIT, 13.3.2</b><br>Room No.229, 2 <sup>nd</sup> Floor,<br>Aayakar Bhavan,<br>M.K. Road,<br>Mumbai<br>Maharashtra – 400020 | Vs. | <b>M/s. Rich Feel Health<br/>and Beauty Pvt. Ltd.,</b><br>198/5, Jagdish Niwas,<br>Ram Milan Shukla Marg,<br>Sion Koliwada,<br>Maharashtra– 400 022<br><b>PAN: AACCR3751J</b> |
| (Appellant)   |     | (Respondent)  |

**Present for:**

Assessee by : Shri Snehal Shah, C.A.  
Revenue by : Smt Sanyogita Nagpal, D.R.

Date of Hearing : 18 . 06 . 2024  
Date of Pronouncement : 28 . 06 . 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Revenue against the order dated 13-12-2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2018-19.

**2.** At the outset, Shri Snehal Shah, C.A. has submitted that in the instant case Corporate Insolvency Resolution Proceedings (in short "CIRP") have been initiated against the assessee herein and vide order dated 26.08.2022 "moratorium" has been declared as per section 14 of the Insolvency and Bankruptcy Code, 2016 (in short "Code") by the Hon'ble NCLT, Mumbai. Section 14 of the Code provides the institution of suites or continuation of pending suits or proceedings against the corporate debtor, including execution of any judgment and decree or order in any court of law, Tribunal, arbitration Panel and other Authority. Further, as per section 238 of the Code "the provision of this Code shall have effect, notwithstanding anything in consistent therewith contained in any other law for the time being in force for any instrument having effect by virtue of any such law" . As the CIRP still pending before Hon'ble NCLT, Mumbai as evident from the order dated 03.05.2024 which is self explanatory, as the moratorium period in the case of the Assessee has commenced pursuant to the order dated 26.08.2022 passed by the Hon'ble NCLT, Mumbai, whereas the instant appeal has been preferred by the Revenue Department only on 09.02.2024 i.e. after the commencement of the moratorium period, therefore, the same is in contravention of section 14 of the Code.

**3.** The Ld. DR did not refute the aforesaid claim of the Assessee.

**4.** Having considered the contentions raised by the parties and the order dated 26.08.2022 passed by the Hon'ble NCLT, Court No.2, Mumbai Benches, the instant appeal is liable to be dismissed and therefore we are inclined to do so, however, with liberty to the Revenue Department to seek reopening of the appeal on the finalization of the proceedings pending before the Hon'ble NCLT against the assessee herein.

**5.** In the result, the appeal filed by the Revenue Department stands dismissed being not maintainable but with a liberty to the Revenue Department to seek reopening of the appeal, on the finalization of the proceedings pending before the Hon'ble NCLT against the assessee herein.

**Order pronounced in the open court on 28.06.2024.**

**Sd/-  
(GIRISH AGRAWAL)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.