

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA Nos.811, 860, 861, 862, 863, 864,  
865, 866, 870, 871 & 872/Chny/2023,  
निर्धारण वर्ष /Assessment Years: 2011-12, 2009-10, 2010-11, 2013-14,  
2016-17, 2017-18, 2017-18, 2018-19, 2008-09, 2012-13 & 2012-13.

Aircel Limited  
No.769, Spencer Plaza,  
Mount Road,  
Chennai-600002.  
[PAN: AAACS4449J]

The Dy. Commissioner of  
Income Tax, Corporate Circle-  
1(1),  
Chennai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri K.Venkatesh Prabhu, C.A,  
: Shri R.Clement Ramesh Kumar,  
CIT

सुनवाई की तारीख/Date of Hearing

: 02.07.2024

घोषणा की तारीख /Date of  
Pronouncement

: 10.07.2024

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

These 11 appeals are filed against the orders bearing DIN & Order  
No.ITBA/NFAC/S/250/2022-23/1050206382(1), dated 28.02.2023  
for A.Y-2011-12, No.ITBA/NFAC/S/250/2022-23/1050016706(1) dated  
22.02.2023 for the A.Y-2009-10, No.ITBA/NFAC/S/250/2022-

23/1050205124(1) dated 28.02.2023 for the A.Y-2010-11, No.ITBA/NFAC/S/250/2022-23/1050206515(1) dated 28.02.2023 for the A.Y-2013-14, No.ITBA/NFAC/S/250/2022-23/1050206017(1) dated 28.02.2023 for the A.Y-2016-17, No.ITBA/NFAC/S/250/2022-23/1050205809(1) dated 28.02.2023 for the A.Y-2017-18, No.ITBA/NFAC/S/250/2022-23/1050206189(1) dated 28.02.2023 for the A.Y-2017-18, No.ITBA/NFAC/S/250/2022-23/1050205918(1) dated 28.02.2023 for the A.Y-2018-19, No.ITBA/NFAC/S/250/2022-23/1050205012(1) dated 28.02.2023 for the A.Y-2008-09, No.ITBA/NFAC/S/250/2022-23/1050205582(1) dated 28.02.2023 for the A.Y-2012-13, No.ITBA/NFAC/S/250/2022-23/1050205428(1) dated 28.02.2023 for the A.Y-2012-13, of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi. Through the aforesaid appeals the assessee has challenged the orders u/s 250 passed by NFAC, Delhi.

2.0 Through the preferred adjudication orders, the first appellate authority had dismissed the appeal of the assessee on the premise that a moratorium was existing in all the above appeals on account of initiation of insolvency resolution proceedings.

3.0 As a common issue involved concerning orders of the Hon'ble National Company Law Tribunal, Mumbai Bench dated 09.06.2020 exists

in all the aforesaid appeals, the same are adjudicated with this common order.

4.0 In all the appeals, the appellant has raised twin set of grounds of appeal firstly that no-demand / proceedings pertaining to pre-CIRP periods survive after the passage of order of Hon'ble National Company Law Tribunal, Mumbai Bench dated 09.06.2020 and secondly on the merits of the case.

5.0 At the outset the Ld.AR of the assessee invited our attention to para-9.1.16 of the impugned order of Hon'ble NCLT mandating as under:

Clause	Dispensation	Orders thereon
9.1.16	From the Approval date, all inquiries, investigations and proceedings, suits, claims, disputes, proceedings in connection with the Corporate Debtor or affairs of the corporate Debtor, pending or threatened, present or future in relation to any period prior to the Approval Date, or arising on account of implementation of this Resolution Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to the Corporate Debtor or the Resolution Applicant. Upon approval of this Resolution	<p>Granted, subject to the condition that these shall pertain to any inquiries, investigations, proceedings, suits, claims, disputes, etc. Only in relation to the period prior to the Approval Date and not thereafter.</p> <p>From the approval date, the corporate applicants now controlled by the RA shall be responsible for their own destinies arising out of non-compliance for the period after such approval.</p>

	<p>Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor in relation to any period prior to the Effective Date.</p>	
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6.0 Reliance was also placed on Para 9.1.17 and 9.1.18 of the order referred Supra. The Ld.AR also invited our attention to section 156A which authorizes the AO to modify the demand order issued under Section 156 in conformity with the order of the adjudicating authority, reducing the demand of tax, interest, penalty, fine, or any other sum.

7.0 The Ld.DR did not contest the arguments of the Ld. AR and agreed for action to be taken by the AO as prescribed in the section 156A.

8.0 We have heard the rival submission and examined the matter in the light of facts of the case and evidence placed on record. It is noted that the finance bill-2022 introduced section 156A which provides as under:

***Modification and revision of notice in certain cases.***

*“..156A.(1) Where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under*

*section 156, is reduced as a result of an order of the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall accordingly, apply in relation to such notice.*

*(2) Where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly.”.*

9.0 The statutory provision of section 156A effective from 1<sup>st</sup> April, 2022 thus provides that where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly. The amended law further provides that where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly. Accordingly, we direct the assessing officer to take necessary action under section 156A of the Act. Since the grounds of appeal No.1 raised by the assessee on the technical grounds are allowed, the alternative grounds concerning merits of the case have not been found to be deserving any separate adjudication.

10.0 In the result all the appeals are allowed.

*Order pronounced on 10<sup>th</sup> July, 2024 at Chennai.*

**Sd/-**  
**(एबी टी. वर्की)**  
**(ABY T VARKEY)**

**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 10<sup>th</sup> July, 2024.

*KB/-*

**Sd/-**  
**(अमिताभ शुक्ला)**  
**(AMITABH SHUKLA)**

**लेखा सदस्य /Accountant Member**

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

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