

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 3538/Del/2016
(Assessment Year: 2011-12)**

DCIT,
Circle-13(2),
New Delhi

(Appellant)

PAN:AABCE2251K

Vs. M/s. Jubilant Energy (Kharsang)
P. Ltd,
Plot No. 15, Knowledge Park-II,
Greater Noida, UP
(Respondent)

Assessee by :	Shri Rohit Jain, Adv Shri Anuj Garg, Sr. DR
Revenue by:	
Date of Hearing	09/07/2024
Date of pronouncement	30/08/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.3538/Del/2016 for AY 2011-12, arises out of the order of the Commissioner of Income Tax (Appeals)-17, New Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. 236/2013-14(A)5 to 17/2015-16 dated 17.03.2016 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.02.2014 by the Assessing Officer, DCIT, Circle-4(1), New Delhi (hereinafter referred to as 'ld. AO').

2. At the outset, we find that the ld. AR placed on record a decision of the Hon'ble Jurisdictional High Court in assessee's own case passed in ITA 999/2017 dated 05.09.2023 wherein the fact of assessee being in the clutches of Hon'ble National Company Law Tribunal (NCLT) and a modified resolution plan was passed thereon on 04.02.2020 was noted. Further, it

was noted that the resolution plan did not make any provision towards any statutory dues payable by the assessee. The assessee's counsel before the Hon'ble High Court had stated that the revenue herein had not lodged its claim towards statutory dues before the Resolution Professional (RP). The Hon'ble High Court noticed that the Corporate Insolvency Resolution Process (CIRP) in case of the assessee commenced on 19.03.2017. The Hon'ble High Court noted that out of the total amount of Rs 123.10 crores available for distribution, no amounts were ear marked for payment of statutory dues by NCLT in its order dated 4.2.2020 in view of the fact that the revenue had not lodged any claims before the RP. Though this High Court order was passed for the Asst Year 2008-09, still the fact that the revenue had not lodged any claim before the RP holds good for the year under consideration also. The Hon'ble High Court also had noted in Paras 13 to 15 as under:-

"13. Having regard to the fact that the claims which are the subject matter of the present appeal concern the period prior to the approval of the resolution plan by the NCLT, in which no provision has been made for statutory dues, the continuation of this appeal would serve no purpose.

14. The court in these matters adopts a "clean slate" approach , and therefore, this appeal would have to be closed.

15. The appeal is, accordingly, closed."

3. The aforesaid decision of Hon'ble High Court shall squarely apply to the year under consideration also and hence we deem it fit and appropriate to dismiss the appeal of the revenue as no purpose would be served by keeping this appeal pending before this tribunal and even if the revenue succeeds before this tribunal, still it could not recover any dues from the assessee company in view of the fact, that it had failed to implead itself by lodging its claim before the RP and no monies were allocated for distribution towards any statutory dues in the order passed by the NCLT dated 4.2.2020. Accordingly, the grounds raised by the revenue are dismissed.

4. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 30/08/2024.

-Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:30/08/2024
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi