

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.972/Mum/2020
(Assessment Year :2016-17)**

The Dy. Commissioner of Income Tax, Central Circle-6(4) Mumbai	Vs.	M/s. Arshiya Limited 308, Level-3 F-Block, Ceejay House Shiv Sagar Estate Dr. Annie Besant Road Worli, Mumbai-400 018
PAN/GIR No.AAACI2679A		
(Appellant)	..	(Respondent)

**ITA No.7901/Mum/2019
(Assessment Year :2016-17)**

M/s. Arshiya Limited 302, Level-3 F-Block, Ceejay House Shiv Sagar Estate Dr. Annie Besant Road Worli, Mumbai-400 018	Vs.	The Dy. Commissioner of Income Tax, Central Circle-6(4) Mumbai
PAN/GIR No.AAACI2679A		
(Appellant)	..	(Respondent)

Assessee by	Shri Piyush Chhajed
Revenue by	Shri Ajay Chandra
Date of Hearing	27/08/2024
Date of Pronouncement	29/08/2024

आदेश / O R D E R**PER BENCH:**

The aforesaid appeals have been filed by the assessee as well as by the Revenue against order dated 07/11/2019 for the quantum of assessment passed u/s.143(3) for the A.Y.2016-17.

2. Before us ld. Counsel for the assessee submitted that against the assessee company, Insolvency and Bankruptcy Code, 2016 has been initiated u/s. 7 of IBC Code and NCLT vide order dated 23/04/2024 had put moratorium on any pending suit or proceedings. For the sake of ready reference, the following direction of the NCLT is reproduced hereunder:-

“This Application being C.P. (IB) No. 3143/MB/2019 filed under Section 7 of the IBC by the Punjab National Bank, FC for Initiating CIRP in the case of Arshiya Limited, the CD, Is admitted.

We further declare moratorium u/s 14 of the IBC, with consequential directions as follows:

1. *We prohibit-*

a) the institution of suits or continuation of pending suits or proceedings against the CD including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority,

b) transferring, encumbering, alienating or disposing of by the CD any of its assets or any legal right or beneficial interest therein,

c) any action to foreclose, recover or enforce any security interest created by the CD in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002),

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the CD.

II. That the supply of essential goods or services to the CD, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Bench approves the resolution plan under section 31(1) of the IBC or passes an order for the liquidation of the CD under section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made in accordance with the provisions of the IBC, the Rules and Regulations made thereunder.

V. That this Bench hereby appoints Mr. Nitin Vishwanath Panchal, a registered Insolvency Professional having Registration Number-IBBI/IPA-001/IP- P00777/2017-2018/11350 and e-mail-nitin20768@gmail.com, having valid Authorisation for Assignment up to 18.12.2024 as the Interim Resolution Professional (IRP) to carry out the functions under the IBC. The fee payable to IRP/RP shall be in accordance with the Regulations/Circulars issued by the IBBI.

VI. During the CIRP Period, the management of the CD shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the CD shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

VII. In exercise of the powers under Rule 11 of the NCLT Rules, we order the FC to deposit a sum of Rs.5,00,000/- (Five Lakh Rupees) with the IRP to meet the Initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the FC on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC).

VIII. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the CD.

IX. The Registry is directed to immediately communicate this Order to the FC, the CD and the IRP by way of e-mail and WhatsApp, not later than two days from the date of this Order.

X. The Registry is directed to communicate this order to the Insolvency and Bankruptcy Board of India forthwith for Information and record.

3. Thus, when there is a moratorium u/s.14 of the IBC and there is a moratorium on initiation of any suit or proceedings against corporate debtor by any execution of any judgment, decree or order in any court of law, tribunal, Arbitration Tribunal Panel Authority, then without the approval of committee of creditors and after the due process, this appeal cannot be heard or disposed of. Accordingly, both the appeals are consigned to records. However, the parties are at liberty to get the appeals restituted once the committees of creditors approve the assessee company and the department gets permission to pursue the appeal or NCLT pass the order for giving any such direction. Accordingly, both the appeals are dismissed in limine.

4. In the result, both the appeals are dismissed in limine.

Order pronounced on 29th August, 2024.

Sd/-
(RENU JAUHRI)

ACCOUNTANT MEMBER

Mumbai; Dated 29/08/2024
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
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