

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 725/Kol/2024
Assessment Year: 2018-19

Marsons Ltd. (PAN: AABCM 9906 H)	Vs.	PCIT, Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	23.10.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	20.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri C. M . Roy, A.R
For the Respondent/ राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 15.03.2024 for AY 2018-19.

2. The assessee has challenged the revisionary order passed u/s 263 of the Act by the PCIT despite the fact that NCLT has already passed final order on 25.1.2022 under the Insolvency and Bankruptcy Code, 2016.

3. Facts in brief are that the assessee company has gone into proceedings under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC, 2016) before NCLT and NCLT has passed an order vide order dated 25.01.2022 approving the Revised Resolution Plan for registration. The NCLT has also passed the final order on 25.01.2022 approving the registration resolution professional plan. Once the NCLT has passed the order under IBC 2016, then all the claims, debt to Govt. authorities including the taxes stood extinguished.

4. The assessee has challenged the invalid exercise of jurisdiction by the PCIT even when the order was finally passed by NCLT dated 25.01.2022 on the ground that all the outstanding demands to the deptt stands extinguished meaning thereby that the PCIT cannot revise any assessment framed by the AO as erroneous and prejudicial to the interest of the revenue as with the passing of final order by NCLT all the claims by way of taxes and funds to the Department would be extinguished. The case of the assessee finds support from the decision of Co-ordinate Bench of Kolkata in the case of M/s Kohinoor Steel Pvt. Ltd. vs. ITO in ITA No. 27/Kol/2020 for AY 2012-13 dated 19.02.2024 wherein the Co-ordinate Bench has held that as per Insolvency & Bankruptcy Code, 2016 no proceedings can continue against the corporate debtor i.e. the assessee after the order of the NCLT. The Co-ordinate Bench held that in view of this all the appeals before the Tribunal filed by the assessee are dismissed as infructuous.

5. Considering the above facts and circumstances, we are inclined to set aside the order of PCIT u/s 263 of the Act as invalid by allowing the appeal of the assessee.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 20th November, 2024

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)

(Rajesh Kumar/राजेश कुमार)

Vice-President/उपाध्यक्ष

Accountant Member/लेखा सदस्य

Dated: 20th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Marsons Ltd., Marsons House, Chakmir, Budge Budge, Trunk Road, Maheshtala-700142
2. Respondent – PCIT, Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata