

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.955/Mum/2024  
(Assessment Year :2018-19)**

Deputy Commissioner of Income Tax, Central Circle, 3.1. Room No.1923, 19 <sup>th</sup> Floor, Air India Building, Nariman Point Mumbai-400 021	Vs.	M/s.Pratibha Industries Ltd., 1B, 56 and 57 Phoenix Paragon Plaza L B S Marg, Kurla West Mumbai-400 070
<b>PAN/GIR No.AAACP4709N</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri R.A. Dhyani
<b>Date of Hearing</b>	<b>25/11/2024</b>
<b>Date of Pronouncement</b>	<b>26/11/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the Revenue against order dated 18/12/2023 passed by CIT (A)-51 Mumbai in relation to the penalty proceedings u/s. 270A for the A.Y.2018-19.

2. It has been brought to our notice that in the quantum proceedings, the appeal of the Revenue was dismissed by the

ITAT on the ground that Assessee Company has been referred to Insolvency Resolution Process under IBC and NCLT has passed the order on 08/02/2021. As per the direction of NCLT, no suit or legal proceeding can be initiated by or against the Corporate debtor and accordingly, the appeal was dismissed with the liberty to the assessee / revenue to make an application for restoration of this appeal. For the sake of ready reference, the order of the Tribunal is reproduced hereunder:-

*“1.The revenue has filed the appeal against the order of the Commissioner of Income Tax (Appeals) (CIT(A)-51 Mumbai passed u/sec 250 of the Act.*

*2. At the time of hearing, the Ld. DR has mentioned that, the assessee has been referred to the Corporate Insolvency Resolution Process (CIRP) as per IBC-2016 Laws and is in liquidation process. Further the order passed by the National Company Law Tribunal (NCLT), Mumbai dated 08.02.2021 was brought on record, filed by the letter dated 9-07-2024.*

*3. We find that, subject to the provisions of Sec. 52 of IBC-2016, no suit or other legal proceedings shall be instituted by or against the corporate debtor. Considering the facts and circumstances, we are of the opinion that there is no point in proceeding with the appeal filed by the revenue and also keeping the appeal pending is also a continuation of proceedings.*

*4. Accordingly, we considering the order of the NCLT dismiss the appeal filed by the revenue. Further we grant the liberty to the appellant/revenue to make an application for restoration of this appeal by recall of this order.*

*5. In the result, the appeal filed by the revenue is dismissed.*

3. Accordingly, the appeal of the Revenue in penalty proceedings is also dismissed on the similar line and we also grant same liberty to the assessee / revenue to make an

application for restoration of this appeal as and when committee of creditors / NCLT authorizes the resolution professional to pursue the matter or the Income Tax department gets the permission from the Committee of Creditors or NCLT to pursue this appeal.

**4. In the result, appeal of the Revenue is dismissed.**

Order pronounced on 26<sup>th</sup> November, 2024.

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

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai; Dated 26/11/2024  
KARUNA, sr.ps

**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**